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REVIEW

OF

THE RELATIONS

BETWEEN

THE UNITED STATES AND MEXICO,

AND

OF THE CLAIMS

OF

CITIZENS OF THE UNITED STATES AGAINST MEXICO.

BY RICHARD S. COXE.



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# T E X A S .

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## INTRODUCTION.

In presenting the following papers to the public in their present shape, it seemed proper to accompany them with a brief exposition of the circumstances in which they originated, and of the reasons to which they owe their existence. They have already appeared in the columns of a newspaper—the first series in the Richmond Enquirer, and the residue in the Union. The parties at whose instance they were prepared, have judged it expedient to republish them; while others have concurred in this design, under the impression that they embodied, in a condensed form, much valuable information upon topics of general importance. The present aspect of the relations between the United States and Mexico is full of interest. Whether or not there will be a formal declaration of war, seems yet to be a matter of uncertainty; but whether that event should or should not occur, the affairs of the two governments have reached a point, and assumed a character, which imperatively demand that the subjects of controversy, which have so long existed, should be brought to a definite settlement. The causes of complaint have been of long standing, and of an irritating nature. The amicable feelings which once bound the two nations together, have been obliterated. Mutual estrangement has succeeded, and terms of recrimination have been exchanged, rousing on either side the angry passions of the respective parties. It is not possible much longer to postpone the adjustment of these controversies. They must be terminated through the instrumentality of war, or by amicable arrangement. The number and character of the reclamations of the parties seem to preclude the possibility of a pacific settlement. The claims of citizens of the United States, for remuneration for alleged infractions of their rights of person and property, cannot be estimated at a smaller amount than ten millions of dollars. The character of the outrages in which these claims originated has imposed upon the government the imperative obligation to demand, and, if necessary, to enforce, their liquidation. Every day swells the amount of compensation to which the parties are entitled, and increases the incapacity of Mexico to provide for their payment. They must either be adjusted and paid, or tamely relinquished. The latter alternative, involving a renunciation of every national duty, and the violation of the most positive national pledges, cannot, for a moment be anticipated. It may be assumed

as a positive certainty, that the payment must be voluntarily made, or enforced by all the power of the nation. It is unnecessary to state that voluntary payment by Mexico, in any form, or to any extent, is utterly hopeless.

In addition to every other impediment which, for many years, has interposed to prevent Mexico from doing justice to the injured citizens of the United States, she has herself, within the last few months, found either substantial causes of complaint against our own government, in its proceedings and measures in relation to Texas, or at least pretexts upon which she asserts that the balance of injury is on her side. She alleges, that, in originally populating Texas with our own citizens, in the severance of that State from the residue of the republic, and finally in annexing her to our Union, we have violated every principle by which one nation should regulate its intercourse with its neighbors, trampled upon all the obligations of solemn treaties, outraged the most clearly defined rights of Mexico, and sacrificed justice and equity upon the altar of an unscrupulous and grasping spirit of self-aggrandizement.

With such discordant views of their mutual rights and obligations, it is idle to hope that the two parties can arrive at an amicable and pacific adjustment of their differences. For either to yield, would be to submit, without a struggle, to all the consequences of an unsuccessful war, and to abandon every ground which has been deliberately and publicly assumed. The American government cannot retrace its steps. It cannot annul the compact by which Texas has become "bone of our bone, and flesh of our flesh." It cannot admit that its conduct merits the harsh epithets which have been applied to it by Mexico and her friends. As little can she retract what she has so repeatedly urged on the subject of the claims of her citizens for remuneration and indemnification. She has proclaimed that, in the perpetration of the outrages of which she complains, Mexico has violated our just rights, and that it is the paramount duty of the government to afford ample protection to her citizens, and to enforce, if necessary, with all the power of the nation, full compensation for the wrongs they have sustained from a foreign power. She has sanctified and solemnized the obligation growing out of the relation of government and citizen, by the most deliberate assurances that this obligation is recognized, and the most distinct pledges that his duty shall be fulfilled.

In this posture of things, it seems vain to expect that specific relations can long subsist between the two nations. Each professes to have grounds of complaint against the other, which it asserts to be just and reasonable; and each has pledged itself to maintain its rights at every hazard. Temporary causes may intervene, and prevent an immediate resort to arms by either power; but the causes of war cannot be removed, and they must continue to increase in number and to augment in strength, till they bear down every barrier which wisdom or policy may interpose to prevent the final catastrophe.

Such being the relations at present subsisting between the two nations, and such their probable issue, it is incumbent upon every citizen of the

United States to inform himself of the true merits of the controversy, and to lend his aid, however feeble that may be, in enlightening the public mind upon the subject. His country and his government have been made the objects of the most severe denunciation, not only by the antagonist party, but by many of our own citizens, whose character and position confer upon them extensive influence. The acts of Mexico have been vindicated or palliated, while the conduct of the United States has been violently condemned. It is equally our right and our duty to examine the subject, and to determine, in the spirit of justice, stimulated but not blinded by the impulses of patriotism, whether we are as a nation guilty or not guilty of the crimes laid to our charge.

It is the purport and design of the following papers to examine and discuss this interesting question. The result to which the writer's mind has been brought, will be apparent on perusing what he has written. Entertaining the fullest confidence in these conclusions he submits them to the candid consideration of his countrymen, of all parties and of all localities, with a firm assurance in his own mind, as well as of the truth of the facts which he has stated, as of the validity of the inferences which he has deduced. It may be permitted him to add, that, had his investigations conducted him to a different result, and convinced him that his country had merited the reproaches which have been cast upon her—that her conduct had been disgraced by injustice to a weaker neighbor—that her character had been sullied by a propensity to rapine and to robbery—he would have mourned in silence over the tarnished honor of his nation. He would have preferred, like the virtuous son of the ancient Patriarch, rather to have cast a mantle over the nakedness of a beloved parent, than with sacrilegious hands to have exposed it to the contemptuous gaze of a cold and unfeeling world.

It is now somewhat more than five years since the writer was employed professionally to conduct the cases of several citizens of the United States, who had claims upon Mexico, growing out of injuries inflicted upon them by the hands, or under the sanction, of public functionaries of Mexico. A convention had recently been consummated between the two powers, providing for the organization of a board of commissioners to examine and adjust claims of this description. A full intercourse with the intelligent gentlemen who were his clients, and subsequently with others, supplied a mass of information as to the history and present state of Mexico, which with such published works, as were accessible, and a large number of written documents, (including the entire diplomatic correspondence between the two governments which had been communicated to Congress), furnished the means of indulging a curiosity to trace, in detail, the entire history of the relations which had subsisted between the two nations.

A mass of materials was thus accumulated, which, under less favorable circumstances, could not readily be collected by a single individual; and which would probably have been neglected by any one who had not been stimulated by collateral considerations to avail himself of the opportunities thus afforded. The interest which originally prompted to the task, was

daily increased in pursuing the investigation of the subject. Those sensibilities to the honor and dignity of his country, which it behooves every American citizen sedulously to cherish ;—that indignation, which the recital of gross and unprovoked wrong is calculated to inspire ;—that sympathy, which severe and unmerited suffering awakens—were all powerfully roused by the continually recurring narratives of Mexican perfidy, rapine, and cruelty. It was manifest that the national honor had been wantonly and systematically assailed ;—that the lives, the property, and the rights of our citizens had been endangered and violated ;—that the laws of nations had been continually trampled upon, and the most solemn and precise treaty stipulations daily disregarded. Such appeared not as insulated and occasional incidents, but as the uniform and unvaried character of the relations which had subsisted between two contiguous nations. So few and remote were the exceptions, that the conduct of Mexico towards American citizens may almost literally be characterized as "*nulla virtute redemptum.*"

While such were the traits exhibited by the one party, the deportment of the United States, as well government as people, manifested the most striking contrast. It had been marked throughout by magnanimity and forbearance, by generosity and patient endurance. During the period when Spain was rent by the convulsions which upheaved Europe from its foundations—when the struggles between the emperor of France and the Spanish nation were exhausting the strength and resources of the parent country, as well as of her American colonies—the United States were presented with the most favorable opportunities for displaying and gratifying that lust of aggrandizement which has at times been most unscrupulously and falsely attributed to the people and government of this Republic. There was no necessity to invent or fabricate pretexts for plunging into hostilities, and wrenching by force, from the impotent hands of Spain, her most valuable territories, as an indemnity for the wrongs she had inflicted, and payment of the remuneration which she justly owed. We had many and aggravated causes which would have justified a resort to war ; and the consequences of a declaration of hostilities could scarcely be regarded as doubtful. Our own will would have fixed the only limit to our power to appropriate to ourselves the Spanish dominions on this continent. Instead of resorting to such measures of redressing our wrongs, we patiently waited until the termination of the great wars in Europe left Spain, disengaged from this tremendous conflict, which for years had been waging in every corner of her realm, free to listen to our solicitations for justice. So far from pressing upon Spain in her hour of need, the American government discountenanced various attempts which were made to overthrow the Spanish authority in the New World. It is unnecessary to do more than to allude to the vigorous measures which were adopted to arrest the movements of Miranda, and to defeat the projects of Burr. When Spain became relieved, our demands upon her were adjusted upon terms the most generous and liberal in their character, to that gallant and suffering nation. We relinquished every claim for

pecuniary compensation from her exhausted treasury and impoverished people. We ceded our entire claim to the magnificent territory lying between the Sabine and the Rio del Norte. We relinquished this claim, which, while some may undertake to controvert its clear and perfect validity, none can deny to have rested on such a plausible foundation as to have stimulated the cupidity of a more ambitious and less scrupulous power. For all these concessions, made by a powerful to a weaker nation, we received from Spain the cession of Florida, to one-third of which we had long asserted a paramount title, and that title had now been ripened by a continuous peaceable possession, and which, if her title had been undisputed, was valueless in the hands of Spain, from her inability to defend it. Such were the exhibitions of that encroaching and aggrandizing spirit, which has been thought to justify severe animadversions from a community, which, centralized in a small island, has extended her sway beyond the limits of Alexander's conquests and whose banner floats over a wider region than the Roman eagle ever ventured to gaze upon—whose foreign territories comprehend a population of one hundred millions.

Not long after the termination of her European contests, Spain found herself involved in the struggle which her American colonies had instituted to emancipate themselves from her yoke. A congeniality of feeling, and an almost identification of principle with the people of the United States during a similar contest, led our people and our government to feel and express a warm sympathy with the infant republics just emerging into existence. We afforded them every encouragement which was compatible with our neutral position. Many of our citizens volunteered to peril their lives in maintaining the cause of freedom. We availed ourselves of the earliest opportunity to recognise the establishment of that independence which was yet hardly achieved—exerted our influence to procure a similar recognition from the leading powers in Europe—and labored to create a combination with them, to induce Spain to desist from further efforts at subjugation, and to crown the result by her free acknowledgment of the independence of her ancient colonies. In all these movements, no eye, but one jaundiced by the most morbid suspicion, can discover aught but the most sincere and disinterested attachment to the great and noble cause of liberal and free institutions. Instead of availing ourselves of the prominent position which we occupied on this continent, and of our commanding strength to enlarge our boundaries by new acquisitions of territory, we studiously avoided every act and every word which indicated any desire of personal advantage. Instead of seeking to procure for ourselves those commercial privileges which the services we had rendered might have furnished us with grounds of claiming as a right, we refused to receive them as a voluntary tribute of gratitude for our exertions in behalf of these infant nations. We peremptorily declined to accept any advantages in trade, which were not extended to the rest of the Christian world; and the only suggestion which we offered, or would listen to, of the grant of peculiar or exclusive rights, was in favor of Spain—the very nation whom we were accused

of wronging, but who, in fact, had perpetrated upon us the most grievous injuries.

Through our intervention mainly, Mexican independence was consummated, and universally acknowledged. Animated, or professing to be animated, by the same liberal principles which had guided us in analogous circumstances, Mexico assumed, as the basis of her constitution of government, the same doctrines which had guided our fathers in constructing our institutions. With few and comparatively unimportant modifications, she adopted the main features of the frame of government under which we had advanced with unparalleled rapidity in strength, prosperity, and happiness.

Gratified by these manifestations of a community of feeling, and anticipating from such indications a more cordial and harmonious intercourse than had ever before subsisted between distinct communities, again the people and the government of the United States received the Mexicans with almost fraternal affection. Our citizens, enticed by the alluring prospects presented to them in this new field of enterprise, encouraged by the flattering invitations by which they were tempted, confiding in the good faith of a people towards whom we had uniformly exhibited nothing but kindness and generosity, and whose institutions were so similar to our own, emigrated in great numbers to Mexico, and carried with them to their new abodes wealth, skill, and enterprise, to be now employed in the development of the resources, and the augmentation of the strength of their adopted country.

In thus contributing to the aggrandizement of our sister republic, we cherished the firm belief, and the confident expectation, that we were knitting the two nations together by the strongest and most enduring cords by which separate communities can be connected. Our commercial interests, our agricultural products, the various occupations of industry in every department, promised the most diverse, yet most harmonious sources of mutual advantage. Each was deficient in what was superabundant in the other.

Under these auspicious circumstances, feelings of mutual confidence, and habits of the most harmonious and unfettered intercourse, were equally natural and advantageous. Treaties were arranged between the two nations, adjusting all those questions of boundary which might threaten collision, and embodying in the form of solemn compacts the generous and enlightened principles of a humane and philosophic policy. Everything prognosticated an uninterrupted career of tranquillity and prosperity.

These anticipations, so gratifying to the philanthropist and the statesman, were not, however, doomed to be realized. It soon appeared that the inhabitants of Mexico, habituated to the demoralizing and degrading oppression of a stern and unrelenting despotism, were but indifferently qualified for the mild and moral restraints of republican institutions. The yoke which Spain had so long fastened upon their necks, was, it is true, broken; but the breaking of their political fetters did not confer the

capacity to comprehend or to enjoy the sweets of liberty. The corrupt tendencies generated under their ancient influences, now liberated from the restraints imposed by their colonial system of government, were only permitted to expand more luxuriantly and more vigorously under their new institutions. All the vices and iniquities which the slave had learned were now practised by the freemen, clothed with the accumulated strength and energy which freedom had communicated. All subordination to law and government disappeared. The soldiery became the mere organs of political revolutions. Anarchy ruled the entire land; and the most energetic and most intellectual—at the same time the most unprincipled—became the exclusive possessors of sovereign authority. Revolution succeeded revolution. The forms of a republic were, to a certain extent, preserved; but they exerted no greater influence, and commanded no greater respect, than they had done in ancient Rome, after every vestige of liberty had been erased by the Praetorian guards of the Emperor.

In such a position of the country, where the law yielded no protection to the native, it could not be expected to afford a shield to the foreigner. Rapine and murder stalked unchecked through the land, and atrocities were daily perpetrated, which were justly characterized, by one of our distinguished statesmen, as barbarities without parallel or precedent in the annals of civilisation. Citizens of the United States, possessing more vigor of character, more industry, more skill in business, than the natives, soon became conspicuous for their prosperity and wealth, and, thus elevated, became tempting objects to rouse the cupidity of their neighbors. In vain did they appeal to the constituted authorities of the land for that protection which had been guarantied by the most precise treaty stipulations; the public functionaries were too generally the actors or the accomplices in the deeds of cruelty and oppression, to afford them either security or redress. In vain did they invoke the interposition of their own government; the remonstrances of diplomatists were wholly ineffective. The facts which they alleged were either denied with the most unblushing disregard to truth, coolly passed by with contemptuous indifference, or met with vague and indefinite promises of inquiry and compensation, which, in postponing the demand, accomplished every purpose which was either desired or designed. The annexed papers furnish, from authentic sources, a brief but faithful narrative of this portion of Mexican history.

At and prior to the time when Santa Anna overthrew the existing constitution, obliterated the confederated republic, and constructed on its ruins a military despotism, numerous Americans had established themselves throughout the various provinces of Mexico, and had engaged in a prosperous career in every department of industry. The commerce between the two nations had, in a brief period, swelled to an amount exceeding nine millions of dollars annually. Steam vessels navigated their rivers; mills were erected for the purpose of cutting their immense forests of valuable timber; plantations of cotton, sugar, and coffee were established; and the natural resources of the country were rapidly develop-

ing to the great advantage of the nation, and of the individuals interested in these improvements. This scene of prosperity was, however, speedily changed. Every engine of oppression was put in motion, to outrage and to expel this most invaluable population, and thus to extinguish these prolific sources of public and of private wealth. A feeling of intense and indiscriminate hatred to foreigners was artfully fomented; and, without remorse, without any effort to arrest the act, without any apprehension of punishment following the offence, the lives of American citizens were ruthlessly sacrificed, millions of property pillaged or destroyed, and all the pursuits of business wantonly annihilated.

Resistance to the designs of Santa Anna was attempted in several of the States of Mexico; but all opposition was speedily quelled by the sword of the despot, and the bayonets of his soldiery, save only in the frontier state of Texas. From various circumstances, it had occurred that a larger proportion of Americans and foreigners had established themselves in that province than in any other portion of the territory of the republic. Although feeble in numbers, they were undismayed by the defection which was elsewhere manifested, and, inspired by the love of free institutions, they determined to protect their constitution, and to defend their rights against the usurper. It is an entire perversion of the truth to assert that Texas ever revolted against a sovereignty to which she owed allegiance, or revolutionized an established government. She maintained her institutions against the efforts of Mexico to overthrow them, and adhered loyally to the constitution which the residue of the republic labored to subvert, or were impotent to preserve. Her glorious victory at San Jacinto confirmed her independence of the new central sovereignty, which Santa Anna had succeeded in establishing; and Texas became for ever separated from what, under new political institutions, still continued to claim the name of the Mexican Republic.

Having consummated this act of separation, Texas was shortly after recognized as a distinct and independent state, by the United States and other principal powers of the world. Mexico persisted in her efforts to reduce her to subjection; but the war, in consequence of the imbecility of Mexico, continued to languish, and degenerated into a miserable but annoying system of marauding forays. Under these circumstances, the citizens of Texas conceived the idea of associating themselves with this Union. This project, after encountering many and serious impediments, has at length been perfected by the almost unanimous voice of the great body of her people, and been ratified by the constituted authorities of both nations.

In reviewing the history of the relations between the United States and Mexico, it will be seen that the latter has rarely found, in the conduct of the former, any pretext for complaint. The proceedings of our government in relation to Texas have furnished almost the only acts which Mexico has even pretended to charge as unjust or injurious to her. These proceedings, up to a very recent period, have been thoroughly vindicated

in the reply of Mr. Webster to the arrogant communication of Mr. Bocanegra to the diplomatic corps. In relation to the recent act of annexation, Mexico has alleged, as she did in the preliminary proceedings, that we have violated her clearly-ascertained national rights, as well as our own solemn treaty engagements. The imputation involves the violation of good faith, and a breach of positive contract. If the accusation is well founded, the act cannot be too severely reprobated, or too harshly condemned. If unjust, it should be proudly and indignantly repelled. An attempt has been made, in the first series of the subjoined papers, to exhibit the true merits of this question in a fair and dispassionate form.

It will be readily perceived that the principal object aimed at in these papers, has been to show that Mexico has not even a plausible pretext for assailing the honor and integrity of this nation, in reference to the subject of Texas; that the charge of infracting the law of nations, of violating treaties, or in any shape or to any degree impairing her rights, is utterly groundless. It is only in this aspect that the question has been handled. Considered in this point of view, it forms an important item in the history of our relations with Mexico, which it has been the exclusive object of the entire series of these articles to illustrate. It did not fall within the scope of the writer to vindicate the act on any grounds that were purely domestic. How far the measure was in accordance with our interests and policy—how far it was in conformity with the principles of our constitution—are questions certainly of grave importance. They have been discussed elsewhere with consummate ability. Upon them the author entertains the most decided opinions; and these opinions have been expressed, without hesitation or reserve, on other occasions. To discuss them on this occasion, would be a departure from the exclusive object of the present publication, which is restricted to the single point of vindicating the honor, integrity and good faith of this country in all her relations with Mexico, and exhibiting in their true character our dealings with that nation.

If these papers—which, so far as regards the form which they assume, have been written “*currente callamo*,” amid other and engrossing occupations—shall be instrumental in vindicating, in the eyes of our own citizens, our common country from the aspersions so falsely or ignorantly cast upon it, as instigated by a reckless spirit of aggrandizement to perpetrate injustice upon a neighboring community—of urging demands upon it, which have no foundation in justice—of asserting claims which have no substantial existence;—if they shall have exhibited in their true colors and just proportions the character of Mexico, and the imperative obligations which rest upon this government to persist in every claim which we have asserted, until Mexico shall either voluntarily engage, or, by the application of the whole power of the nation, be compelled to atone for the multiplied wrongs she has inflicted, to compensate for the grievous injuries which our citizens have suffered at her hands, to atone for the insults she has offered to our flag and to our government, the object

sought to be attained will have been fully accomplished. The honor of the country, the outraged rights of our people, demand imperatively that these results shall be attained; and the government will be recreant to its own duty and its own character, if it shall fail to attain them all.

RICHARD S. COXE.

WASHINGTON, *September 10, 1845.*

## No. II.

THERE is an inherent love of honor and of justice prevading the public mind in this country, which no man, who duly appreciates the character of the American people, will be so senseless or so narrow-minded as for a moment to suppose is confined to any particular section of the Union, or exclusively enjoyed by any particular party. This deference to principle is co-extensive with our institutions, and as widely spread as our territorial limits. Yet it is perfectly obvious that it is by appeals to this moral sense of the community that much of the feeling antagonistic to the annexation of Texas has been assailed. With how much justice this has been done, will appear from a calm and deliberate examination of the subject.

In common with others, both Mr. Clay and Mr. Van Buren, in the exhibition of their views, appear to have fallen into a capital error, which has given but too much color to these imputations, upon the principles and motives of those who differed with them in opinion, and which it is not easy to reconcile with the long and practical experience which both of those gentlemen have had in public affairs. They have urged, as the chief foundation of their hostility to the measure of annexation, as it was presented at the last session of Congress, that it would involve a serious injury to the subsisting rights of Mexico. They have intimated that, in their judgment, the connection which at one time existed between Mexico and Texas still continues ; that this connection cannot be rightfully and absolutely dissolved without the express or implied assent of both parties ; and that, notwithstanding the public declaration by Texas that this connection had terminated, the actual enjoyment of her independence, and the formal recognition of this independence by the United States, and several of the leading sovereigns of Europe, still, to certain purposes, Mexico retains her original claim to the sovereignty of the country ; and that, until this right of Mexico shall be formally yielded by her, or, through some indefinite lapse of time, shall be impliedly relinquished, Texas remains, and must remain, in the view of public and national law, a constituent part of the Mexican territory. They consequently insist, that, in this posture of affairs, the United States have no right, and cannot, without a manifest violation of the prior and unquestioned right of Mexico, form a union with Texas, and, even with her free and full consent, receive her into our Union as an integral part of our Republic.

In the views thus exhibited, lies, as is apprehended, a double error :

the one in the facts assumed as the foundation upon which the opinion rests—the other admitting the truth of those facts, in the legal consequences resulting from them.

The fact is denied, and history sustains this denial, that Texas, at any time, to any extent, or for any purpose, constituted a part of Mexico, or was either rightfully or otherwise subject to her sovereign authority.

In making this broad assertion, we must, of course, be understood as distinguishing between Mexico as one separate and independent sovereignty, and the United States of Mexico, or the United Mexican States—names given to a confederation and union of several distinct and sovereign States, of which Mexico was one, and the most prominent. Those united States were frequently and familiarly called Mexico, precisely in the same manner, and by the same figure of speech, that these United States are styled America. This distinction, so important to a correct understanding of the subject, and which has been wholly overlooked in the objection we are considering, has been for two centuries familiar to European history. The United Provinces were seven in number, of which Holland, being the principal and more powerful, gave her name in the same way to the whole republic. Austria, simply a distinct principality, was a name familiarly used and applied to the entire dominions under the sway of her Imperial master. In the year 1776, while under the sovereigns of Spain, the vice royalty of New Spain comprehended several distinct provinces, among which were Mexico, Puebla, Vera Cruz, &c., &c. ; while Coahuila and Texas were not included within that appellation. When the Spanish yoke was thrown off by her American provinces, new and distinct sovereignties were created out of the broken fragments. Their independence was not a combined, or even a contemporaneous act. The single circumstance that all had originally constituted parts of the territory of, and professed allegiance to, the same mother-country, did not render them, when that connection was dissolved, one independent state. That circumstance did not make them a unit in the new condition of affairs. Colombia, Central America, Peru, Chili, and others, are, and have been, as completely severed from each other as from their common parent.

In some instances, as circumstances made it expedient, the new communities thus sprung into existence began to form associations with their neighbors upon terms mutually acceptable ; in others they remained distinctly and separately independent. In the northern part of those Spanish dominions the federal system obtained the preponderance, and a republican form of government was adopted. This comprised nineteen distinct States, and five territories, the population of which latter was not sufficient to entitle them to be received upon the same

footing of equality with the more powerful members of the Union. A regular constitution, or form of government, was established, analogous, in many respects, to that which prevails in the United States. The name assumed by this confederacy was the United Mexican States ; and, by the terms of the Constitution, each State retained large and important powers, and exclusively managed its own internal concerns. The legislative department, like our own, was composed of two bodies —the House of Representatives and the Senate. The members of the former were elected in the different States—each eighty thousand inhabitants being entitled to one representative. The Senate was constituted of two members, chosen by each State legislature. The executive power was deposited in the hands of a president, elected by the State legislatures every four years. It is unnecessary, on this occasion, to go further into details, illustrating the close resemblance which subsisted between the constitutional form of government, which was adopted by the new republic, and that which exists in our own country.

Of the republic thus constituted, the State of Coahuila and Texas formed an integral part. It was a voluntary association, united by a special compact of the most solemn kind and character. It subsisted by and in its organic law—its constitution. From this republic (of which by her own free assent she composed a part) Texas has never separated. She has never revolted against it—never declared herself independent of it ; nor did she ever assent to, or participate in, its dissolution. While it continued in existence, Texas remained faithful to her engagements, loyal to her allegiance, unswerving in her fidelity. It was dissolved without her consent, against her wishes, in spite of her remonstrances. It was annihilated by the voice and action of other and more powerful members of the confederacy. It was overturned by violence, by force of arms—by what, in the vernacular phrase of the country, is termed a *pronuntiamento* ; elsewhere known by the more expressive word, a *revolution*.

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### No. III.

IN our last number it was stated, in a succinct manner, what was the nature of the union of the States into which Texas entered, and by which her political existence became connected with that of Mexico, and how that union had been terminated. The question now presents itself, what were the legitimate consequences resulting from this state of things ? A compact had been formed between independent States,

connecting them under one federal head. That connection was terminated by the will of a portion of this community, annihilating the bond of union, and establishing a new form of government, which had not, like the former, any foundation in the general consent of the parties. What is, then, the condition of a party to the old compact? Is it under any obligation to yield its assent to the change which has thus been consummated? Does it owe any allegiance to the new Government, constituted without its consent, and in opposition to its wishes? These inquiries may be satisfactorily answered by reference to our own institutions, and by considering them as propounded to ourselves. Our national existence owes its birth to circumstances and to principles identical with those in which the Mexican Republic originated. When the thirteen colonies emancipated themselves from the dominion of England, and proclaimed their independence, they each became a sovereign, free, and independent State. Each was, by this act, clothed with all the attributes of sovereignty, to every extent, and to every purpose. The connection with Great Britain was absolutely and entirely dissolved. It was as if it had never existed. Each was at perfect liberty to form for itself a separate and distinct government; and no other earthly power had the right to interfere with the free exercise of this will. Each was entitled, by its own inherent powers, without looking beyond for any additional sanction to its course, to unite with, or to remain distinct from, each and every other. Had one or more of them judged it expedient, they might, even during the pendency of the Revolutionary struggle, do as all collectively did—organize their own forms of government, and form alliances with foreign powers. Some might have preferred to surrender their separate political existence, so recently asserted, and still unconsolidated and unconfirmed, by merging it in that of some European potentate. One might have gone back to her ancient sovereign, Holland; another might have deemed it more in accordance with her interests to yield an unqualified submission to France; while a third, pursuing its own views of policy, might, with equal right, have recognized the sovereignty of Spain, and became a part of her American domain.

Can this view of the matter admit of any reasonable doubt? In what part of the code of national law it is prohibited? What right would have been violated? The colonies were, and each separately was, perfectly and absolutely independent. This independency was consummate and perfect in July, 1776, and owes not a tittle to its recognition by Great Britain in the treaty of peace. Such has ever been the doctrine held by every statesman and jurist in the United States. In the year 1808, the very point came up for decision before the Supreme Court of the United

States. The language of that high tribunal on that occasion is clear, precise, and unequivocal. "This opinion," they say, "is predicated upon a principle which is believed to be undeniable—that the *several* States which compose this Union, so far at least as regards their municipal regulations, became entitled, from the time when they declared themselves, independent, to all the rights and powers of Sovereign States, and that they did not derive them from ~~any~~ <sup>any</sup> ~~successions~~ made by the British King. The treaty of peace contains a recognition of their independence, not a grant of it."

Upon the same principles, each of the provinces which had been colonized on this continent by Old Spain, when it cast off the ancient sovereignty and asserted its independence, became, in like manner, separately and distinctly a free and sovereign State. Each possessed all the attributes of sovereignty. Each enjoyed, to its utmost extent, the right to establish such form of government as to it seemed most suitable to its circumstances, and promised to be most conducive to its happiness. Each was at perfect liberty to connect himself, under any form of alliance or association, with any other power. The same rights of sovereignty which gave validity to the act by which some of these States formed a union with each other, made compacts, merged, to such extent as they pleased, their separate existence in that of another, or association of others, equally entitled it rightfully and effectually to establish a similar connection with any other independent power, and form with it a joint and united nation upon the same or any other terms.

There was nothing in the previous connexion between the separate provinces of Spain, in the fact of their having been associated in their allegiance to the same sovereign, or in the law of nations applicable to this state of circumstances, which, when they had achieved their independence, bound them to limit themselves in establishing a confederacy with other States, to each other or among themselves. The province of Texas had as perfect, absolute, and indefeasible right, in that posture of affairs, to form a union with these United States, or Guatemala a similar one with France, or Buenos Ayres with Brazil, upon any terms mutually acceptable to the parties, as the same provinces had to form an association with each other. If a difference exists, it is assuredly not an obvious one; and none such, it is believed, has ever been suggested from any quarter.

## No. IV.

If the views presented in the preceding number be correct—and no reason is seen to entertain a doubt upon the subject—then it must be conceded, that, at the point of time when Texas had proclaimed and consummated her independence on Spain, no consequence flowed from her new position which, in any measure, qualified or limited the extent of her sovereign rights. There did not result from it, to any extent or to any purpose, any obligation to connect herself with Mexico, or any subordination to that sister province. She was as independent of Mexico as of Spain.

The consequence is irresistible, that, at that juncture, the right of Texas to form a union with these United States, upon any terms or conditions which she might deem expedient, was as perfect and unquestionable as that which she confessedly possessed, and in fact exercised, of uniting herself with other free and independent States, in her immediate vicinity, and to which circumstances had attached her more closely. If it was competent for her, without affording just cause of offence to any power, to do what she has done, when she formed with the States of Mexico, Vera Cruz, Puebla, and others, a confederative republic, then also might she, in the exercise of the same faculties, and in the same form, have united herself with our own government.

Animated by a generous sympathy, engendered by a common struggle for the attainment of common ends, and by an enlarged sense of mutual interests, the thirteen colonies, after having proclaimed their independence on Great Britain, in the exercise of their undoubted powers, thought it expedient, even before the conclusion of hostilities, to associate together under articles of confederation. This celebrated league had its origin contemporaneously with the Declaration of Independence, although it did not receive the assent of all the States until the year 1781. After adopting a name for the confederacy, the first article of this agreement declares that each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not, by this confederation, expressly delegated to the United States in Congress assembled; and the Sixth Article contains a stipulation which impliedly admits the authority to exist, the exercise of which is thus fettered, that no State, without the consent of the United States, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance, or treaty with, any king, prince, or State, &c. After the close of the war, the same parties again judged it expedient to

perfect this union, and to knit the parts more closely together, and they united in establishing a Constitution, which, with but few, and, as regards our foreign relations, wholly unimportant alterations, still continues the chart of our government.

Stimulated by our example, animated by congenial motives, and placed in the same circumstances, several of the provinces which had declared themselves independent on Old Spain, and whose territories were contiguous, pursued, almost without deviation, the same course. In the year 1824, and, as the face of the instrument itself expresses, in the *fourth* year of *independence*, and *second* of the federation, they agreed upon, and promulgated a Constitution. One clause in this paper is without any precedent in the American form. The concluding article, No. 171, in terms, declares, that "the Articles of this Constitution, and the constitutional act which establishes the division of the supreme power of the federation and of the States, can never be reformed."

The fifth Article of the Constitution, Section 49, declares the object of the laws and decrees which may emanate from the general Congress. Among these is—"third, maintain the independence of the States among themselves, in all that relates to their interior government, in conformity to the constitutional act and this Constitution." The form of government is specially declared to be republican, representative, popular, federal. Not only are the powers and jurisdiction of the federal government clearly and explicitly defined, but even the form and powers of the State governments are expressed with equal caution and distinctness.

In 1827, the State of Coahuila and Texas acceded formally to this plan of government, by the establishment and promulgation of its own State Constitution. Some of the provisions of this instrument are remarkable, and indicate a vigilant and sagacious forecast. Among its prominent enactments is found this declaration: that the State "is free and independent of the other United Mexican States, and of every other foreign power and dominion;" that, "in all matters relating to the Mexican federation, the State delegates its faculties and powers to the general Congress of the same; but, in all that properly relates to the administration and entire government of the State, it retains its liberty, independence, and sovereignty." "Therefore belongs exclusively to the same State the right to establish, by means of its representatives, its fundamental laws, conformable to the basis sanctioned in the constitutional act and the general Constitution."

It was thus, and to this extent, that Texas, by her own free act, as a sovereign and independent State, annexed herself to, and became a part of the Mexican Republic. The Constitution was, in form and substance,

in design and terms, a compact between distinct and separate communities, prescribing the objects of the union, the terms and conditions upon which it was established, defining with precision and accuracy the powers delegated to the general government, and those which were retained by the State. In general and comprehensive, but perfectly intelligible language, it declared the nature and character of that general government, while, in distributing these powers among the several departments, providing for the mode in which all the functionaries were to be elected and appointed, it was guarded, as far as written Constitution can guard, against any substantial alteration in these fundamental points. The division which it made of the supreme powers of the Republic, and the distribution of those faculties between and among the general and State governments, was not only made fundamental, but unchangeable for ever. It then appears, from the most authentic and indubitable evidence, that, so far from there ever having been any sovereign authority in Mexico over Texas, any inferiority or subordination, they met, acted, and confederated as equal and independent, and as occupying, in every particular, and to every purpose, an equal footing.

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No. V.

The form of government and the character of the connection established by the Constitution of 1824, have been examined. That Constitution, however, has been dissolved, and the form of government which it created and legitimated has been overturned. This catastrophe was accomplished, not at the instance of Texas—not by any act of hers—not with her aid or participation. It was consummated by the acts of other members of the Confederacy, and chiefly through the instrumentality of Mexico—the most prominent and the most powerful of the number. In the years 1834 and 1835, General Santa Anna, who had previously been connected with the constitutional or federal party, suddenly changed his ground—at the head of an army overthrew the existing government, ejected the general and State legislatures from their halls, and established a central military despotism on the ruins of the Constitution. No reference was made to the will of the nation—no consent of the people was required or given. Wherever opposition was made to the new order of things, it was met at the point of the bayonet and overcome. Assuming sovereign power, based upon no other foundation than his own individual will, he issued the most arbitrary decrees, and undertook to enforce their execution by the sole energy of the sword. Texas, animated by

a feeling which commands our sympathy and deserves our highest eulogium, singly opposed this power. A convention of the deputies of the people was held, and a provisional government was established. Even amid all these circumstances, Texas continued true and loyal to her engagements. Imitating again the noble example of our forefathers in 1775, while with one hand she grasped the sword with a fixed resolution to maintain her rights and her free institutions, with the other she proffered the olive branch. In November, 1835, a manifesto was promulgated, couched in language which must commend itself equally to the feelings and principles of every votary of rational freedom—

“Whereas General Antonio Lopez de Santa Anna, and other military chieftains, have by force of arms overthrown the Federal Constitution of Mexico, and dissolved the social compact which existed between Texas and the other members of the confederacy, now, the good people of Texas, availing themselves of their natural right, solemnly declare—

“First. That they have taken up arms in defense of their rights and liberties, which were threatened by the encroachments of military despots, and in defence of the republican principles of the Federal Constitution of Mexico of 1824.

“Second. That Texas is no longer morally or civilly bound by the compact of union ; yet, stimulated by the generosity and sympathy common to a free people, they offer their support and assistance to such of the members of the Mexican confederacy as will take up arms against a military despotism.

“Third. that they do not acknowledge that the present authorities of the present nominal Mexican Republic have the right to govern within the limits of Texas.

“Fourth. That they will not cease to carry on war against the said authorities, whilst their troops are within the limits of Texas.

“Fifth. That they hold it to be their right, during the disorganization of the federal system and the reign of despotism, to withdraw from the Union, to establish an independent government, or to adopt such measures as they may deem best calculated to protect their rights and liberties, but that they will continue faithful to the Mexican government, so long as that nation is governed by the Constitution and laws that were framed for the government of the political association.”

The principles embodied in this manifesto are substantially those which emanated from the fathers of our own Revolution, during the period which intervened between the first shedding of blood at Lexington until, all hopes of reconciliation being abandoned, the Declaration of Independence consummated for ever the dissolution of the connection by which the colonies had been bound to the mother-country. Those sentiments

and principlest has commended themselves to the reason and judgment of of every American patriot and votary of constitutional freedom through Christendom. It is hoped that they have lost none of their titles to our respect and sympathy during the years that have since passed.

As among ourselves, these appeals to principle proved unavailing. Santa Anna was not to be moved by declarations of personal rights, and securities guarantied by written Constitutions, or derived from the original foundations of government. He persisted in his efforts to subjugate by arms those who opposed him. He penetrated Texas with his army : he was vanquished on the plains of San Jacinto, and found himself a prisoner in the hands of those whom he had hoped to bring under his iron sway. Treated with a lenity which he never would have exhibited, had the fortunes of war given him the victory, he still perseveres in his determination.

In the meanwhile, finding all plans of conciliation futile and ineffective —all compacts broken—all written Constitutions trampled on—the inhabitants of Texas, still, if not imitating our example, impelled by the same motives, and actuated by the same principles which influenced our fathers, in March, 1836, promulgated a declaration of independence. In this memorable instrument, they say : “ That the Federal Republican Constitution of their country, which they had sworn to support, has no longer a substantial existence ; and the whole nature of their government has been forcibly changed, without their consent, from a restrictive federative republic, composed of sovereign States, to a consolidated, central, and military despotism.” They assert, in detail, the grievances to which they had been subjected, and come to a conclusion, the legitimacy of which no citizen of these United States can consistently controvert—“ The necessity of self-preservation, therefore, now decrees our eternal political separation.”

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#### No. VI.

WE have now traced, in a rapid manner, the history of Texas, down to the year 1836, when her independence was not merely formally announced in an authoritative form, but actually consolidated by a victory as decisive as that which, at Yorktown, consummated the independence of these United States.

Out of the materials which had, by their voluntary cohesion and agreement, composed the Mexican Republic, two distinct nations had been formed. Mexico, and those of the States which still adhered to

her, constituted the one, under a system of government which, wholly regardless of all the principles of republicanism and personal freedom, rested upon the sword and military power as its only foundations. On the other hand, Texas, who had, in connection with Mexico, thrown off the Spanish yoke, who had with her united in establishing a constitutional federative republican government, adhered to the principles which all had originally proposed, and by which all had been originally actuated, and persisted in remaining free.

To the new government thus established by her former associates, Texas has never yielded her assent. She has never professed allegiance to it. She has never recognised its authority. She peremptorily refused her concurrence in its establishment, and, from the beginning, has proclaimed herself independent of it. By the blessing of God, and with the strength of her own right arm, she has been enabled to maintain this independence. The "republican representative, popular, federal government," instituted, as we have seen, in 1824, no longer exists—the union which was then formed has been dissolved, and this artificial body has been resolved into its original elements.

What, then, is the consequence of such a dissolution thus wrought? The universal sense of mankind, wherever free governments exist—wherever written Constitutions are known—furnishes but one answer to this interrogatory. The integral parts of the confederation resume their original position—they stand where they did before the union was established. Mexico and Texas occupy the same attitude, and possess the same absolute and relative rights which they did before they became connected under their written terms of association. It was by this compact that any change had been effected; *that* having terminated, its effect and operation cease. There no longer exists the common head; *that* has been annihilated by the dissolution of the compact which created it, and none other has been substituted.

To assert that from this course of events it results that Texas owes any degree or species of allegiance to Mexico; that she is still under any subordination to, or dependence upon her, or that Mexico has the faintest shadow of right to assert sovereignty over Texas—is to draw consequences wholly unwarranted by the premises. To say, as Mr. Clay most unguardedly says, that "Texas revolted from Mexico," is to assume that which has no foundation in the history of the two nations.

The language of our own Declaration of Independence assumes and promulgates the true doctrine upon this point. In that paper it is declared "that governments are instituted among men, drawing their just powers from the consent of the governed, to secure the rights of life, liberty, and the pursuit of happiness"—"That, whenever any form of

government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness."—"When a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security." Such were the principles entertained by our forefathers ; such the language in which they were announced to the world, as the ground upon which the American colonies were justified before God and man in decreeing "an eternal separation" from Great Britain. How much stronger was the case of Texas ! England had not attempted to subvert the old and established form of government. The ground of complaint against her was, that she abused the power which she in part possessed, and disregarded the rights of those whom she had a constitutional authority to govern. Mexico struck at the root of the tree. She assailed and undermined the very foundation upon which the Union rested. She prostrated the entire system of government established by the consent of all parties to the confederation. She broke the only tie of connection which subsisted between herself and Texas.

Cogent and conclusive as is the argument drawn from our own example in 1776, a still more striking analogy to the circumstances in which Texas was placed, by the lawless usurpation of Santa Anna, may be imagined. A case may be conceived, which, it is to be hoped, will never exist but in the fancy. The several States which compose our Union are bound together by a constitutional compact, similar in its fundamental characteristics, and even in many of its details, to that which existed among the States which constituted the Republic of Mexico. If it happen, in the progress of time, that a portion of the largest and most powerful of our States, under any influences, should deem it expedient to alter fundamentally the form of government which is embodied in our Constitution ; should Massachusetts and New York, Pennsylvania and Ohio, resolve to put an end to the existing state of things, and establish a monarchy, or what would more closely approximate to the government which existed in Mexico, a military despotism—should these powerful States be enabled, by force of arms, to bring this project to a successful issue, within their own borders, and to extend it by similar means over their weaker neighbors, would such a movement, however successfully achieved, establish any right, in the monarch whom they might create, to the sovereignty of other portions of the Union which might choose to keep aloof from this new arrangement ? Would

Virginia and Kentucky, the Carolinas and Louisiana, be in any manner bound by this proceeding, to which they had never yielded their assent? Would their resistance to this measure merit the name of revolt? Would they, after successfully opposing any attempt to impose this new government upon their unwilling shoulders, be legally, or morally, or in any other way, incapacitated from forming new political connections with each other, or with whomsoever they pleased, upon any terms which, in their judgment, might seem best calculated to promote their liberty and happiness? Would the consent of the new monarch be necessary to give validity to such compacts? Would a wrong be inflicted upon him by a power which might think proper to favor such a confederacy? Is it possible that such questions as these can be seriously put, or doubts be entertained respecting them by any sober, intelligent mind? Yet there are men, and those among the ablest in the land, who, under the circumstances of the case, assert that Texas was, and is, in contemplation of law, an integral part of the present government of Mexico, bound to it by ties which she has no rightful authority to dissolve; and that, without the assent of Mexico, she is not *de jure* independent, and has no capacity to unite herself with this Republic—who maintain that, by the mere act of forming such a union, we are violating the rights of Mexico, and inflicting a grievous wrong upon the government of Santa Anna.

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No. VII.

It is apprehended that our first position has been fully established; that it may confidently be asserted, that the essential facts assumed by gentlemen who deny the absolute, unconditional, and unqualified right of Texas, wholly independent of any assent expressed or implied by the subsisting government of Mexico, to establish for herself any form of government which she may deem expedient, to form any alliance or connection with these United States, or who insist that this nation, in acceding to any such connection, would thereby violate any right of Mexico, or furnish her with any just cause or offence, are wholly unwarranted and unsupported by the truth of the case.

We may now advance to our next position in the discussion. The proposition which is now to be asserted and maintained is this: that upon the supposition that Texas did originally constitute a part of the territory of the present government of Mexico, bound to it as an integral portion of that community, yet, having declared her separation and

independence—having, in fact, consummated that independence by a successful resistance to all the efforts of Mexico to subjugate her—having been recognised as a free and sovereign State, in good faith, by these United States, as well as by various European powers—she is perfectly, absolutely, and unconditionally independent, and has a perfect, absolute, and unconditional capacity to exercise all the faculties of sovereignty; among which is the right to unite herself in any manner, and upon any terms, which she may think expedient, to any other, although foreign, State.

By the terms of the proposition, as thus stated, certain facts are conceded for the sake of argument. It is assumed that Texas, at one time, formed a component part of the present Republic of Mexico; that she has separated herself from, and declared herself independent of, her former rightful and acknowledged sovereign—facts which, it has been fully demonstrated, are at variance with the truth of history. Nor does the position which has been advanced involve any inquiry by us into the causes of this supposed revolution, or any judgment as to which party in the struggle had the better right. This is a subject upon which, however clear our opinions may be as individuals, we are not authorized, as a nation, to decide. The facts upon which our conclusion mainly rests are uncontroverted and incontrovertible. The independence of Texas actually exist; and its existence has been publicly acknowledged by our own and other governments. The legitimate result from this state of things is, it is believed, that as regards Texas herself, and as regards all other powers, especially those by whom her independence has been recognised, her former connection with Mexico, whatever it may have been, has, to all and every purpose, been absolutely dissolved; that she has as perfect a right to unite herself with this Union as with Mexico herself; and that the United States, in acceding to such a connection, infringes no right of Mexico, violates no injunction of the law of nations, and, consequently, offers no offence to that government. The main, if not the only, ground which has been advanced by the opponents of this doctrine, is, that, notwithstanding the facts incorporated into the propositions, (which are not controverted), yet, so long as Mexico withholds her acknowledgment of the independence of Texas, and persists in asserting her lawful right to sovereignty over her, this independence is only a *quasi* one; that it is inchoate only, and imperfect; and that other nations cannot, without a violation of duty towards Mexico, disregard or do, any act contrary to the rights of that power.

Such is understood to be the length and breadth of the objection now to be considered; and it is my present purpose to demonstrate (as it is thought can be clearly done) that it is at variance with the received

doctrines of the law of nations, and emphatically with the uniform interpretation given to that code by the government of the United States. It is apparent, that this objection rests upon the assumption, that, in reference to the relations which subsist between a particular government and all foreign nations, a distinction exists, well understood and recognised between a sovereign *de jure*, and a sovereign *de facto*. To apply this doctrine to the case in hand, that, although Texas is *de facto* independent, yet, so long as Mexico perseveres in asserting her supposed original right of sovereignty, she must be recognised as the *de jure* sovereign.

It is said this distinction is assumed to exist ; for throughout the entire discussion, no citation, it is believed, has been made from any authoritative writer on public law which affords it the slightest countenance. With great deference and unfeigned respect to the very distinguished individuals who have lent to this doctrine the weight of their authority, it may with great confidence be asserted, that it has no foundation or support in the law of nations. No such distinction will be discovered in Grotius or Vattel, or other eminent writers on this science. On the other hand, the principles which pervade that code, as well as those which have been practically adopted and enforced in the intercourse of nations, are diametrically at variance with any such idea. Drawing our conclusions from these sources, we find this doctrine theoretically asserted and practically acted upon, that the sovereign or sovereignty in fact, which is in actual possession and enjoyment of power, whether rightfully or wrongfully obtained, is that alone which foreign nations are under any obligation, or have any authority, to recognise. It is for the acts of the actual rulers that the nation is responsible to other governments, whether they have acquired their authority by constitutional means or by lawless usurpation. While the matter is in controversy, they assert the right of foreign nations to interpose in the contest in favor of the party whom they suppose in good faith to have the better right ; but, the fact being established by the successful termination of the struggle, they have no further right to interpose ; nor are they empowered to look beyond the mere fact of possession. This is, beyond all reasonable doubt, the rule prescribed by writers on public law ; and the numerous instances in which it has been asserted and acted upon, are familiar to every reader of modern history.

## No. VIII.

THE doctrine under examination, which distinguishes between a *de jure* and a *de facto* sovereignty, and which, it is contended, has no place in the code of international law, will appear, upon examination, to be one exclusively belonging to the municipal law of England. Even in that country it is of doubtful and uncertain existence, restricted by the best writers within very narrow and not very precise limits; and, when correctly interpreted, is not susceptible of application to the controversies which arise between independent nations.

Such as it is, this doctrine originated in the disputed successions for the crown of England, which for so many years unsettled all the foundations of social order, and deluged the country with blood. Blackstone furnishes us with a succinct view of its origin, in the first volume of his *Commentaries*; and other distinguished English common law lawyers either refuse any countenance to it as a principle of law, or so interpret its meaning, or restrict its application, as to leave it little more than a nominal existence. Blackstone informs us that “the crown descended regularly from Henry IV to his son and grandson, Henry V and VI; in the latter of whose reigns, the House of York asserted their dormant title, and, after imbruining the kingdom in blood and confusion for seven years together, at last established it in the person of Edward IV. At his accession to the throne, after a breach of the succession that continued for three descents, and above threescore years, the distinction of a king *de jure* and a king *de facto* began to be *first taken*, in order to indemnify such as had submitted to the late establishment, and to provide for the peace of the kingdom, by confirming all honors conferred, and all acts done by those who were now called usurpers, not tending to the disinheritance of the rightful heir. In Statute 1, Edw. IV, c. 1, the three *Henries* are styled “late kings of England successively, in dede and not of ryghte.” And in all the charters which I have met with of King Edward, wherever he has occasion to speak of any of the line of *Lancaster*, he calls them “*nuper de facto et non de jure reges Angliae*.”

Such is the account of the introduction of this phrase into the municipal code of England, and the view which it exhibits is corroborated by the interpretation which Lord Coke had long before given to it—an interpretation which, if correct, at once precludes the idea of incorporating it into the code of international law. Lord Coke says, that “a king *de facto* is one that is in actual possession of a crown, and hath no lawful right to the same; in which sense, it is opposed to a king *de jure*, who

hath right to a crown, but is out of possession." Blackstone, in his 4th Commentaries, adopts fully this interpretation, and speaks of a "usurper who hath got possession of the throne" as the king *de facto*, and illustrates his idea by putting the case of "the king of Poland or Morocco" invading the kingdom, and by any means obtaining possession of the crown.

Surely those who have interpolated this phrase into the law of nations, and applied it to questions and to parties with which it has no rational or just connection, must have equally misapprehended its true signification and its appropriate position. It presupposes a previous judgment upon the only question over which no foreign power has or can rightfully exercise any jurisdiction—the question of right in the one party, and absence of right in the other. To apply it to the position which Mexico and Texas occupy, and the relations which subsist between them, it admits of no other signification than is expressed in this paraphrase—although Texas is in fact in the actual possession and enjoyment of sovereignty, it is only *de facto*; for "she has no lawful right to the same;" it belongs, *de jure*, to Mexico, because she "hath right, but is out of possession." Upon this question of right, we confessedly have no authority, as a nation, to decide, although it will be difficult to find a citizen of the United States who will deny the justice of the case to be with Texas. One of our most distinctly expressed doctrines—one uniformly maintained throughout our entire history, under each successive administration, under all circumstances, and by every party—is that which asserts the right of every nation to govern itself in its own way, without the intervention of foreign powers, and the absence of all right on the part of foreign governments to interfere in the domestic controversies of other nations.

These were the principles announced as those by which we were animated during the struggle between Mexico and Spain; and they are so distinctly stated by Mr. Van Buren, when, in 1829, he held the office of Secretary of State, as to supersede the necessity, at this time, of making further citations; which, however, might be almost indefinitely multiplied. In a despatch from Mr. Van Buren to Mr. Butler, dated 16th October, 1829, he says: "The United States, drawn by a community of views and feelings towards a young nation, engaged, as they once had been, in a struggle for life and death—for independence and freedom—continued to sympathise with Mexico; and nothing but their immutable principles of non-interference in the domestic concerns of other nations, and of inviolable neutrality towards belligerents, prevented them from extending a helping hand to the young republics of America."—"From the moment that, consistently with their rule of conduct and the

established principles of public law, they could consider Mexico and Spain as two distinct nations, which fate had for ever separated, the United States pronounced the freedom of America; and their Congress, with a unanimity of which the history of legislation affords no example, invited Mexico and her sister republics to take their rank among the independent nations of the earth. The influence which this important event had upon the conduct of the European powers is too well known to require elucidation. The example of the United States was followed almost immediately; and Mexico, a little more than one year after she had proclaimed her independence, was represented at Washington by a minister, invested with all the prerogatives of an ambassador of a free State, and diplomatic and commercial relations were soon after established between her and the most influential powers of the Old World."

In this State paper, no allusion is made to the new doctrine of a *quasi* independence—of a distinction between a sovereignty *de facto* and *de jure*. The non-interference by the United States in the struggle for freedom, during its continuance, is placed upon the rightful ground—“the immutable principle of non-interference in the domestic concerns of other nations”—while that independence was neither declared nor consummated; and, when thus declared and recognised, upon the ground equally sacred among us—that of “inviolable neutrality among belligerents.” These principles are ample, in all similar cases, to furnish guides to our conduct. They are based upon a solid foundation, viz: that among foreign States all occupy an equal position—all have equal rights—no judgment can be pronounced upon the questions which divide them. The *de jure* and *de facto* doctrine, on the other hand, implies inferiority of position, inferiority of right, and the capacity of a foreign power to pass its judgment on these questions.

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## No. IX.

In the last preceding number of these remarks, it was designed to establish the broad and comprehensive doctrine, as a part of the great code of laws which regulates the intercourse between different nations, that the law of non-intervention and of neutrality are distinct branches of the system, founded upon and implying an equality among the members of the great family governed by it; and that not only is the doctrine of a distinction between a sovereignty *de jure* and *de facto* not to be found among its provisions, but it is directly at variance with its best understood and most clearly defined provisions.

It is now proposed to show that this is in precise accordance with the opinions and acts of the government of the United States at all times, and under all circumstances. The doctrine which has ever been avowed and maintained by this nation upon this question, is understood to be this: that when the subsisting government is changed in any foreign country, either by a revolution or by a separation of its parts—by the overthrow of the former rulers, or by an attempt of a portion to disengage itself from an existing connection with another part, the new sovereignty is deemed perfect and absolute, when either it is conceded by the old sovereign, or is recognised by our own executive as having been accomplished in point of fact.

This was the policy of Washington when he recognised the various phases which the government of France assumed during her revolution. It was pursued by every successive administration from that day to the present. Disclaiming, as we uniformly did, all right to interfere in the existing struggles which upheaved the old established forms of government, and overthrew the thrones in most of the ancient monarchies of Europe, we limited our view to those actually in possession of power—recognised the successive rulers who rapidly rose, like phantoms, to places of authority, and as speedily sunk, to be in turn succeeded by others whose career was equally evanescent. The thrones of Naples, Spain, and Portugal were vacated, and the United States uniformly acknowledged the existing sovereignties. They did more; they as uniformly insisted that the nation was responsible for the outrages perpetrated upon the rights of our citizens, by what were termed the intrusive governments. France was required to make compensation for injuries which we had sustained under the administration of the Directory, the consulate, the Emperor; and the house of Bourbon was called upon to pay for wrongs inflicted by their own enemies, which reclamations were finally adjusted by Louis Philippe. Spain indemnified us for violations of our rights by the French authorities; Naples for those we had suffered under the reign of Murat. This principle is at this time universally recognised as the doctrine of the law of nations throughout Europe, alternately asserted and submitted to by every one of the powers of the Old World.

The recognition of a subsisting sovereignty in a foreign nation, is a solemn and authoritative act, to be executed by that department of the government to which the Constitution has entrusted it. When the executive has thus recognised the fact of independence, it is without qualification or condition, and is binding upon the nation. The new sovereign is deemed, to every purpose, sovereign, when either his existence is recognised by our own government, or is acknowledged by the pre-ex-

isting superior authority. Such was the view judicially taken of this question by the Supreme Court, in 1808. Chief Justice Marshall, in delivering the opinion of the court in a case involving this point, thus expresses himself :

“ The colony of St. Domingo, originally belonging to France, had broken the bond which connected her with the parent State, had declared herself independent, and was endeavoring to support that independence by arms. France still asserted her claim of sovereignty, and had employed a military force in support of that claim. A war *de facto* then unquestionably existed between France and St. Domingo. It has been argued that the colony, having thus far maintained its sovereignty by arms, must be considered and treated by other nations as sovereign in fact, and as being entitled to maintain the same intercourse with the world that is maintained by other belligerent nations. In support of this argument, the doctrine of *Vattel* has been particularly referred to. But the language of that writer is obviously addressed to sovereigns, not to courts. It is for governments to decide whether they will consider St. Domingo as an independent nation ; and, *until such decision shall be made, or France shall relinquish her claim*, courts of justice must consider the ancient course of things as remaining unaltered, and the sovereign power of France over that colony as still subsisting.”

In that case, the late lamented Mr. Du Ponceau was questioned by the court, and in answer, observed : “ The question is, whether France can, by the force of the law of nations, seize and confiscate vessels of neutral nations trading to Hayti ? If it is admitted that the situation of France is a war, it follows that France is at war and we are neutrals. If neutrals, we cannot judge of anything *de jure* which is the subject of controversy between France and Hayti. Hayti contends that, *de jure* she is an independent State. France contends that, *de jure*, Hayti is her dependent colony. Of this, as neutrals, we are not permitted to judge. We find them at war together, and at issue on this question of dependent or independent. We must take them both to be right.” Further on, he adds, that we have nothing to do with the claims of France to the sovereignty of Hayti : “ We who are not bound to support her dignity, recognize her rights only so far as they are sanctioned by the laws of a war of the nature of that in which she is engaged, and no further ; and they do not bind us further than the laws of war, applied to the particular war existing, expressly authorized ; but they bind us so far.”

This learned jurist—and few men in this or any other country have been more distinguished for a large and comprehensive acquaintance with public law—maintained the doctrine that, even during the period when the parties were asserting their respective claims and pretensions,

*flagante bello*, the rights of either party rested exclusively upon the laws of war, and the obligations of other nations were limited exclusively to those of neutrality. So far as the particular issue was involved we have seen the judgment pronounced by the Supreme Court. That question is definitely settled, so far as such foreign nation is concerned, by the recognition by the constitutional authority of an existing independence. That being settled, nothing else remains but the ordinary rights of belligerents and the ordinary obligations of neutrality.

It has thus, it is apprehended, been conclusively demonstrated by the highest authority recognized in our land—the opinions and acts of our most eminent statesmen, the opinions and judgments of our ablest jurists—that, even were an active war now in prosecution between Mexico and Texas, for the purpose of the recovery, by the former, of her alleged sovereignty, yet, from the instant the United States, in good faith, acknowledged the independence of the latter, we are bound to regard the two contending parties as equally right in the contest, and our only obligation is, to extend to them equally the same measure of justice; and that is to be regulated by their respective rights as belligerents, and our duties to each of them, as ascertained by the laws of neutrality.

The only question, then, which remains open upon this point, is, whether the United States may lawfully and without affording just cause of offence to Mexico as a belligerent, in good faith purchase Texas from her present owners? or with the assent of her people, according to their institutions, unite her to ourselves?

Upon this point, we have authority equally high as any we have cited to sustain our previous views. During the administration of Mr. Jefferson, the United States opened negotiations for the purchase of Louisiana from France. It was about the period of the termination of the brief and hollow peace brought about by the treaty of Amiens. Great Britain meditated a military expedition, for the purpose of subjugating that province to her own dominion; and the question naturally presented itself, how will England regard this acquisition of territory, which she entertained every hope of subjugating to her own dominion from a foreign enemy? Anticipating an objection from this quarter, Mr. Madison, on the 75th of May, 1803, addressed to Mr. Livingston, our Minister in France, a despatch, in which he says: "As the question may arise, how far, in a state of war, one of the parties can, of right, convey territory to a neutral power, and thereby deprive its enemy of the chance of conquest incident to war, especially when that conquest may have been actually projected, it is though proper to observe to you—1st, that, in the present case the project of peaceable acquisition by the United States originated prior to the war, and, consequently, before a project of conquest could

have existed ; 2d, that the right of a neutral to procure for itself, by a *bona fide* transaction, property of any sort from a belligerant power, ought not to be frustrated by the chance that a rightful conquest thereof might thereby be precluded. A contrary doctrine would sacrifice the just interests of peace to the unreasonable pretensions of war, and the positive rights of one nation to the possible rights of another. A restraint on the alienation of territory, from a nation at war to a nation at peace, is imposed only in cases where the proceeding might have a collusive reference to the existence of the war, and might be calculated to save the property from danger, by placing it in secret trust, to be re-conveyed on the return of peace. No objection of this sort can be made to the acquisitions we have in view." In conclusion, he says : "With these observations, you will be left to do the best you can, under all circumstances, for the interests of your country ; keeping in mind that the rights we assert are clear, that the objects we pursue are just."

# MEXICO.

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No. I.

THE present attitude of the government of the United States and Mexico is calculated to awaken the serious attention of the people of this country, and demands the most deliberate consideration of the Executive. Mexico has thought proper to suspend all diplomatic intercourse with the United States. She has taken umbrage at the proceedings of the President and of Congress, in relation to the annexation of Texas ; and while she has withdrawn her representative from the United States, declines all further correspondence with our minister at her Capital. This is a high-handed measure. It cannot, of course, be of indefinite duration. It is utterly impossible for the two countries, between whom so many relations subsist, to remain for ever in this position ; nor can the United States, with a proper feeling of self-respect, and with a just regard to its own duties to its citizens, submit to such a condition of things.

It becomes, however, important to inquire what is to be the result of this singular announcement. Mexico has again assumed a menacing tone, and threatened, as she has before done, to vindicate what she calls her wounded honor and her injured rights, by a declaration of war. On a former occasion, when similar consequences were held out to deter us from the course which we thought our honor and rights required, Mr. Webster administered a rebuke which led to a withdrawal of this offensive language. If, said he, "the peace of the two countries is to be disturbed, the responsibility well be devolved on Mexico. She must be answerable for consequences. The United States, let it be again repeated, desire peace. It would be with infinite pain that they should find themselves in hostile relations with any of the new governments of this Continent. But their government is regulated, limited, full of the spirit of liberty, but surrounded, nevertheless, with just restraints ; and greatly and fervently as it desires peace with all States, and especially with its more immediate neighbors, yet no fear of a different state of things can be allowed to interrupt its course of equal and exact justice to all

nations, nor to jostle it out of the constitutional orbit in which it revolves."

Should this unhappy and misgoverned country rashly undertake to carry these threats into execution by a declaration of war, but one course will be left for the United States to pursue. She will be compelled to prosecute this war with vigor, and press it to a successful close with all promptitude.

Should it, however, (as there seems some reason to anticipated), be decided by Mexico to abstain from an appeal to arms, and to rest it in the position she has assumed, of a mere discontinuance of diplomatic intercourse, then it behooves us to determine upon the course which it is our right and duty to adopt. It becomes, also, an important inquiry, whether, even before Mexico shall finally determined upon her ulterior course, it would not be advisable and becoming to anticipate her decision, and afford her an opportunity of bringing the subject of controversy to the more amicable arbitrament of negotiation.

The citizens of the United States have large claims upon Mexico. They are of a very aggravated character, and many of them of long standing. A portion of these have already been investigated, and the amount of compensation adjusted. Much the greater part, however, remain unliquidated; but both governments have solemnly and mutually bound themselves by positive treaty to examine and decide upon them.

It cannot for a moment be supposed that the United States will assent to a relinquishment of these claims, or suffer Mexico to maintain her assumed silence in regard to them. If she thinks proper to terminate her official intercourse with this government because she complains of our conduct in regard to Texas, she cannot be permitted to suppose that, in this manner and under this pretext, she can avoid the payment of our just demands upon her. We believe that, in our proceedings relative to Texas, we have done no wrong to Mexico, have violated none of her rights, and have contravened no treaty stipulations, and no requirement of national law. Mexico asserts the contrary. To break off all intercourse between the parties is certainly an unusual way of adjusting these conflicting pretensions, and a novel mode of obtaining redress for an alleged injury. The question is open; and so far as that question merely is concerned, Mexico is certainly at perfect liberty either to make it the subject of amicable discussion, or to pout in sullen silence, as she may think most conducive to her interests, and most reconcileable to her own estimate of national honor.

In regard, however, to her obligations to make compensation to our citizens, the case is wholly different. Our government has repeatedly asserted, in every form and mode which our institutions allow, that

Mexico has inflicted upon us serious injuries, has perpetrated wrongs which she is bound to redress, and that the government of the United States is under imperative obligations to see that ample compensation is provided for them. Mexico has herself acknowledged the justice of the charge. In regard to a portion of the cases, the damages have been liquidated by a board, created by the joint action of the two parties; at the particular solicitation of Mexico, a period of five years was liberally allowed her, within which to pay the amount awarded against her. The money was to be paid in quarterly instalments. At this moment, five of these instalments are in the arrear. In regard to two of them, a singular, and—to the unfortunate claimants, an inexplicable—mystery hangs over the subject. The official dignitaries of both countries have averred that the instalments of April and July, 1844, were in fact paid to the agent of the American government in August last; and this assertion, so far as the public is apprised, has never been officially contradicted. Nevertheless, the money has not yet been received in Washington; and where it actually is, is still a profound secret. But the three last instalments, due in October, January, and April, have unquestionably not been paid; and Mexico is in default at least to that extent.

In regard to the unliquidated claims, Mexico also has solemnly stipulated to provide for their adjustment and payment. A convention was framed in her own Capital, under her own immediate supervision, providing for this adjustment. Its general provisions have been acceded to by both governments, and certain modifications were suggested by the Senate of the United States, in no degree affecting the general principles which had been mutually recognized. Yet this instrument, thus incomplete, has been before the Mexican government for more than a twelvemonth; and, during this entire period, she has not deigned to reply to the reiterated and importunate call of our minister for her decision in regard to it.

It becomes, then, an important and interesting question, What course do the interests of the United States and her obligations to her citizens require to be adopted? The subject will be pursued in a subsequent number.

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## No. II.

THE inquiry which has been proposed is, what course ought the United States to pursue in the present position of affairs between her and

Mexico? The question assumes, as its basis, the now-existing circumstances between the two nations. It assumes, that now the question is to be answered, now the course is to be determined. Before Mexico shall have further committed herself—before affairs have taken a direction which it might be difficult, if not impracticable to change—how are we to act?

As has been shown, the citizens of the United States have claims to a very large amount, (probably to the extent of at least ten millions of dollars) upon the government of Mexico. The validity of these claims has been recognized by both nations, and the national faith of the United States has been pledged that the payment of them must and will be insisted on. Mexico has taken offence on a collateral and independent question, and closed the ordinary channel of national intercourse.

The government of the United States has been compelled, in consequence of the hostile demonstrations on the part of Mexico, to despatch a powerful squadron to the gulf, prepared to prevent or resist any war-like movements. The naval force in the Pacific is, of course, apprised of the posture of affairs. Troops have been assembled on our southern frontier, ready to act as circumstances may demand.

These proceedings, however, are purely and exclusively defensive. Unless Mexico should commence hostilities, nothing will be attempted on our side. The presence of an imposing force on her seaboard, and of an army on her northern frontier, may operate to deter Mexico from the egregious folly of declaring war, but it is impossible to anticipate what her wilfulness may lead to.

As regards our own course, it would be equally unwise and unbecoming for us to wait for the development of her views and conduct. Our proceedings should be independent of her movements, and dictated alone by a regard to our own rights, duties, and interests. The history of our country furnishes a precedent for our instruction, and points out a course which, at the time, commanded the general approbation of the nation and of the world.

In 1833, during the administration of General Jackson, a case almost parallel occurred. By the treaty of July 4, 1831, France had stipulated to pay twenty-five millions of francs in satisfaction of the claims of American citizens on that government, for illegal seizures of their property, and violations of their rights. The money was to be paid by instalments of certain sums, at specified periods. The King of the French, who had concluded the treaty, used every exertion, and employed all his influence, to obtain from the legislative department an appropriation to enable him to fulfill the terms of the arrangement. From causes beyond his control, he had been unsuccessful in these efforts. Payment

was withheld ; and a draft drawn by the American government on France was returned protested for non-payment. President Jackson, keenly sensitive upon every subject connected with the honor and dignity of the nation, transmitted a communication to Congress, in which he employed language that gave offence equally to the French government and the French nation. Under the influence of this irritation, France withdrew her minister, tendered his passports to our Representative at her court, and suspended all diplomatic intercourse with the United States. Thus far, the cases are strikingly analogous ; but great and important differences exist. The subject of the treaty arrangements was the same in both instances—it was the claims of private citizens of the United States for lawless injuries inflicted upon their persons and property by a foreign power. In both cases the validity of these claims, and the obligation to compensate for these wrongs, had been secured by positive treaty stipulations. In both cases these conventional arrangements had been violated, and payments which had been promised were withheld. The ground of complaint which was raised was, in both cases, purely collateral. In the one, France took offence at the language employed by the President, in an official communication to Congress. In the other, Mexico has taken umbrage at the proceedings relative to Texas. In each case the offended party resented the supposed wrong by the suspension of diplomatic intercourse. Here, however, the parallel stops. In regard to France, no cause of complaint existed against the executive. The King and his ministry had faithfully done all in their power to comply with their engagements ; they had recognized the binding force of the treaty which they had signed ; they employed all the constitutional means they possessed to fulfil their obligations ; they had failed in their efforts merely by the omission of the Legislature to meet the necessary appropriations ; and they gave the most satisfactory assurances to the United States, that they would persevere in their exertions to fulfil their engagements.

How widely different has been the conduct of Mexico ? And what a contrast does it exhibit to the manly and honorable course of the French government ! From the moment it was apprised of the result of the board of Commissioners, every effort has been employed by the Mexican executive to rouse a feeling of exasperation and hatred against the government and people of the United States. Every epithet of opprobrium and disgrace has been lavished upon us. The representative of the Prussian government, who acted as umpire between the American and Mexican commissioners, came in for his share of these pitiful calumnies, until they were stopped by the decided tone assumed by the Prussian minister at Mexico. The money which was to be appropriated to the payment

of the awards was raised by a species of forced contribution, in the most oppressive manner, in order that, with every dollar that was paid, might be mingled some portion of exasperated feeling against the object for which it was to be applied, and the people who were to receive it ; and when the money was thus extorted from the Mexican people, it was diverted from its appropriate object, and either went into the general mass of public expenditures, or contributed to fill the pockets of the unprincipled men who administered her finances.

It is the government, the executive of Mexico, which has been faithless to its engagements. No impediment has been interposed by the omission of the Legislature to furnish all the means required. It is the same department of the government which negotiated and signed these treaties, which has, for more than a twelvemonth, failed to pay according to contract, and to comply with their solemn engagements to make provision for the unadjusted claims. The Texas movement is a mere pretext for this flagrant violation of duty by Mexico. Her perfidy and bad faith are of earlier date than any complaint on her part, growing out of Texas concerns. During the entire administrations of General Jackson and Mr. Van Buren, her conduct was constantly denounced by our functionaries, both at home and in Mexico, as faithless, and in equal defiance of national law and of treaty stipulations.

These views are now thus briefly but distinctly presented, because there seems to have been the most extraordinary and inexcusable ignorance manifested on the subject, even by distinguished members of Congress. In the course of our numbers, we shall probably avail ourselves of the opportunity to throw some light upon this part of the case, and to exhibit the character of the outrages upon our citizens, in which the subsisting claims originated, and the language in which they have been denounced by every American functionary who ever had occasion to speak of them.

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### III.

RETURNING from the brief digression into which we had been led in contrasting the character and conduct of the governments of France and Mexico, in reference to their treaty engagements, let us now advert to the course pursued by the United States under circumstances so strikingly analogous to those in which we now find ourselves placed.

In his message to Congress of December 7, 1835, President Jackson

presents a distinct and full narrative of the whole action of the two governments prior and subsequent to the signature of the treaty of July 4, 1831. Having shown that France was clearly in the wrong in placing the construction she had done upon his former communication to Congress in which she thought she discovered insinuations of bad faith, accompanied by what she understood as amounting to a menace, he stated that he had caused "our chargé d'affaires at Paris to be instructed to ask for the final determination of the French government; and, in the event of their refusal to pay the instalments now due, without further explanations to return to the United States."

This demand was to be made on France by our diplomatic agent at that court, after and notwithstanding that the diplomatic intercourse between the two nations had already been closed. That suspension did not, in the judgment of President Jackson or his cabinet, interpose any obstacle to the call upon that government to fulfil its treaty stipulations. On the other hand, it was regarded as a step which our interest and our rights imperatively required. Nor was this act of the Executive condemned or censured by any portion of the American people.

In making this demand on France, no apology or explanation was tendered to soothe the wounded feelings of that proud and gallant nation. On that point, the President thought he had already offered every explanation "which could reasonably be asked or honorably given." He thought he could not do more "without national degradation;" and he emphatically adds: "I hope it is unnecessary for me to say that such a sacrifice will not be made through any agency of mine. The honor of my country shall never be stained by an apology from me for the statement of truth and the performance of duty; nor can I give any explanation of my official acts, except such as is due to integrity and justice and consistent with the principles on which our institutions have been framed."

In reference to the complaint which Mexico has made of the proceedings of our government in relation to Texas, if that government had thought proper to make it the subject of diplomatic discussion, doubtless the Executive would frankly and courteously have met the question, and exhibited the grounds upon which it thought these proceedings stood vindicated from every just cause of reproach. The whole matter would have been discussed in a way soothing to the pride of Mexico, and every sacrifice which could with propriety be yielded, would have been made to her feelings. But the American government could not, and cannot, admit that her conduct has been illegal, or in violation of any right of Mexico. We can neither retract what has been done, nor apologize for

it. Mexico has denounced the measure in the most offensive terms and the most opprobrious language ; and this government would be warranted, by every principle which regulates the intercourse between nations, in demanding and exacting a withdrawal of these expressions before she would condescend to furnish any explanation to Mexico, or to state the grounds upon which she rests for her justification.

But none of these considerations dispense with the propriety of making a formal and peremptory demand upon Mexico, for the immediate payment of all the unpaid instalments of the sums already awarded, and the adoption of prompt measures for the liquidation and satisfaction of outstanding claims.

The language of Mr. Livingston, in his communication with the Duke de Broglie of the 25th April, 1825, exhibits the views then taken by the American government of its rights and obligations. "A negotiation entered into for procuring pecuniary compensation to individuals, involved no positive obligation on their government to prosecute it to extremities. A solemn treaty, ratified by the constitutional organs of the two powers, changed the private into a public right. The government acquires by it a perfect right to *insist on its* stipulations. All doubts as to their justice seem now to have been removed, and every objection to the payment of a debt acknowledged to be just, will be severely scrutinized by the impartial world."

In his message of January 15, 1836, President Jackson again adverts to the subject. He observes : "It will be seen that France requires, as a condition precedent to the execution of a treaty unconditionally ratified, and to the payment of a debt acknowledged by all the branches of her government to be due, that certain explanations shall be made, of which she dictates the terms. These terms are such as that government has already been officially informed cannot be complied with ; and, if persisted in, they must be considered as a deliberate refusal on the part of France to fulfil engagements binding by the law of nations and held sacred by the whole civilized world." He submits to Congress to determine upon the ulterior measures to be pursued. "It is time," he says, "that legislative action should be brought to sustain executive exertion in such measures as the case requires"—suggesting, as an immediate step, the "prohibiting the introduction of French products and the entry of French vessels into our ports," "as a proper preliminary step to stronger measures, should their adoption be rendered necessary by subsequent events."

The subject was taken under consideration by the Committee on Foreign Relations in the Senate, which, by its chairman, Mr Clay, made

an elaborate report on the case. The authority of this gentleman will doubtless have its weight with a certain portion of the people of this country ; and it will be found that, so far as regards the original duty of the government to press to a satisfactory result the claims of its citizens for injuries sustained by them by the aggressions of a foreign power, the "perfect obligation" of the treaty "after its mutual ratification," and the right to insist upon the fulfilment of its stipulations, this report fully sustains the views and opinions of the President. The language in which Mr. Clay conveys his sentiments on these topics deserves to be remembered and weighed by those who are so much disposed to create an impression that our own government can scarcely be right, or a foreign one wrong, in the conduct of their relations.

On the first of the points alluded to, after characterizing the measures of France in which these claims had their origin, as having "prostrated the clearest principles of public law, and violated the most solemn engagements consecrated by pledges of public faith," he says : "whilst, however, the government of the United States felt itself restrained, by prudential considerations, to abstain from an appeal to arms at that period against France," which he had shown would have been perfectly justifiable under the "circumstances," it resolved never to acquiesce in the injustice which citizens of the United States had experienced at the hands of France ; but unremittingly to persevere in demanding the indemnity to which they were justly entitled." "It was due to ancient relations with France, to the interest of the two countries, and to the nature of the case, since the injuries were not resented when they were fresh, that redress should be *first sought* by friendly negotiations."

On the last topic he thus expresses himself : "The President justly remarks, that the idea of acquiescing in the refusal of the execution of the treaty will not for a moment be entertained by any branch of the American government. The United States can never abandon the pursuit of claims founded on the most aggravated wrongs. And if, contrary to all just expectations, France should persist in the non-fulfilment of the treaty, when negotiations shall be completely exhausted, it will then become the bounden and painful duty of the United States to consider what measures are called for, on the occasion, by their honor, their interests, and the justice due to their injured citizens."

The only material point on which the committee differed in opinion with the President, was upon the question whether the period had arrived when the United States were called upon to take into their own hands the redress of the injuries of which they complained. The committee consider that the good faith manifested by the head of the French govern-

ment, the anxious desire which it avowed faithfully to execute the treaty, the circumstances by which it had been baffled in its efforts, and the prospect that all our objects were likely to be speedily accomplished by the exercise of a little more forbearance, justify them in coming to the conclusion that the United States "should await the result of the renewed exertions of the French King and his cabinet to secure the financial means to execute the treaty." Whether the time has not arrived for this government to make a final and peremptory demand of Mexico to fulfil her engagements, is now the question which the Executive must decide.

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#### No. IV.

So great a length of time has intervened since the commencement of our controversies with Mexico, that the origin and character of these difficulties seem almost to have passed into oblivion. Since that period, a new generation has come upon the stage. The statesmen who then predominated in the councils of the nation, no longer exercise a sway in the public councils. The present fills the largest share in general estimation; and when the view is abstracted or diverted from it, it is rather the future than the past that engrosses our attention. In addition to this, it cannot be disguised that the tone and temper of political partisanship exercises a powerful influence in giving a color and a direction to the speculations even of the ablest and most patriotic of the conductors of the press, in the discussions even of questions involving the foreign relations of the country.

Under these circumstances, it is perhaps not to be wondered at that the real history of our intercourse with Mexico should be forgotten, or the real merits of the questions which have arisen between the two nations should be misapprehended. Ignorance, notwithstanding all the facilities for obtaining accurate knowledge, might perhaps be excused; but misrepresentation, especially when calculated to cast odium upon our own country, and to furnish justification for the conduct of a foreign power, admits of no palliation. When the facts are unknown, or have faded from the memory, silence would be the commendable course; but nothing can extenuate the entire perversion of truth which has been so frequently manifested by those who have written most copiously, and declaimed most loudly, on this topic.

One of the most lamentable consequences resulting from this course

has been, that a very large and intelligent portion of the American people are at this time in a state of deplorable ignorance as to the real merits of the disputes in which we are involved with a foreign power. By many, Mexico has been regarded as occupying too unimportant a position among nations to engross much of their attention. No sufficient motive has been found in the relative position and strength of the parties to lead to the supposition that she would wantonly, and without provocation, perpetrate outrages upon her powerful neighbor, or justly incur her resentment. The events which have transpired from time to time have failed to attract observation, or were not deemed worthy of remembrance; and it is only when the measure of the annexation of Texas has been introduced among the topics of our domestic strifes, and employed to swell the notes of party discord, that our relations with Mexico have attracted any considerable share of public attention.

It is not, however, under such circumstances, that questions of this kind can usually be viewed with that calmness and deliberation, that fairness and fullness, which can alone lead to just conclusions or direct the judgment with the greatest accuracy.

We know not to what else than the foregoing and other analogous causes, can be attributed the egregious misapprehensions which have existed, and do exist upon this subject; and that it has happened that, with all the lights which our public archives shed upon it, and the most incontrovertible proofs which history furnishes, Mexico has been held up in our legislative halls, in the most deliberately prepared public documents, and in the columns of many of our leading journals, as an innocent and unoffending party—as a nation which has conducted herself, in her intercourse with foreign nations, with more than Castilian scrupulousness—as pure in her administration of justice towards the citizens and subjects of other governments—as faithful in her observance of treaties—and as having afforded no other cause or motive for hostility, on the part of other nations, than her possession of rich and fertile provinces, which have stimulated their cupidity, and mines whose wealth has excited their sordid avarice. On the more immediate subject of Texas, her claims to that country, though utterly at war with every principle which lies at the foundation of our own institutions, has been treated as if it were perfect and unquestionable; her course of policy towards it, as warranted by public law and the principle of natural justice, and her right to persist in waging a war to subject it to her sway, as admitting of the most perfect justification. On the other hand, the measures proposed by the United States, in her efforts to produce a pacification be-

tween these contending parties, and more recently of annexing Texas to our own Republic, have been, in the same quarters, stigmatized as a piratical robbery, attempted to be perpetrated upon an unoffending neighbor in equal violation of the principles of public law and the most solemn stipulations of treaties.

To those who have investigated this subject fairly and impartially, who have traced the entire history of Mexico since she threw off the Spanish yoke, it would be a matter of supererogation to assert, and to adduce testimony to support the assertion, that nothing can be more essentially and fundamentally, in general and in detail, more false and groundless than the allegations to which we have adverted. De Tocqueville has remarked, that all the history of the United States is comprised in our newspapers; and it is certain, and we congratulate our country upon the fact, that, with a free and independent press, with no shackles imposed upon the expression of opinion, and with such a medium of communication offered to every man who is disposed to transmit his views to the sober judgment of the people, an opportunity is always open to enlighten the public mind upon points on which its judgment must eventually decide. Through this medium, when error has been committed, it may be rectified. The time has arrived when this public opinion should be disabused upon those matters vitally affecting the honor of the nation—when the errors which have been so widely disseminated should be corrected. Not only have thousands of our countrymen been led (most unjustly, as we think) to condemn our government for its conduct, but the most unjust and erroneous ideas have been communicated to the public mind of Europe. Representations have been made, wholly unmerited, that the character of our people and the tendency of our institutions are grasping and rapacious.

On these points it is the duty of every American to contribute his exertions to enlighten the public judgment. In our estimation, the honor and integrity of our government, the disposition of the American people, and the character of our institutions, have been all and equally dishonored and libelled by these aspersions. From the day that Mexico assumed her rank as an independent power, her conduct towards the United States, in an especial manner, has been marked by outrage, and a disregard to her own true interests and the rights of our citizens. Through all the successive administrations which have attained the supremacy in her councils, each has vied with its predecessor in the number and atrocity of its outrages. At first, they were regarded as merely accidental acts of "irregular and unjust proceedings;" but so mild

were our remonstrances, so conciliatory our request for explanations, so courteous our calls for redress, that they were passed by with open neglect, and scarcely suppressed contempt. Gradually they assumed the frequency of a confirmed habit, and the systematic regularity of a well-arranged policy. The reiterated acts of personal cruelty, of rapacious robbery, and of every modification of wrong, drew from every American functionary, without distinction of party, the most indignant denunciations. Demands more or less peremptory were made for redress; and in proportion to the energy with which our remonstrances were urged, and remuneration demanded, did the deportment of Mexico become more conciliatory and more submissive. These oscillations apparently exhausted our patience, and the American government was compelled distinctly to notify that of Mexico, that unless an arrangement should promptly be concluded, no alternative was left but to take the matter into our own hands, and to exact that measure of justice which the case demanded, and which had been so long delayed. Nor was this contemptuous disregard of all the obligations of natural and national justice, and these flagrant violations of treaties, confined to the United States. England suffered wrongs and indignities of a similar character, which, however, were more promptly and vigorously redressed. France received like demonstrations of Mexican faith and honor, until she was compelled to vindicate her rights before the castle of San Juan de Ulloa, to exact satisfaction at the cannon's mouth, and to enforce submission to terms dictated by her admiral from the quarter-deck of his ship.

During this period, the deportment of the United States exhibited the most marked contrast with that of Mexico. It has been stated (and, although not officially promulgated to the public, yet it rests upon high authority) that France and England, indignant at the course of Mexico, proposed to our government to combine in enforcing upon Mexico a respect for the law of nations, and an observance of treaty stipulations; which proposition was declined by the American administration. Be this as it may, the published correspondence shows that scarcely a word of complaint ever escaped a Mexican functionary against the government or people of the United States. In the few instances which did occur, the cases were promptly met, and either distinctly disproved or satisfactorily explained.

It is not our intention to leave these matters of such grave importance to rest upon our unsustained assertions. In our succeeding numbers, we shall go somewhat into detail, and fortify what has been said by the most abundant and conclusive proof, drawn from the most authentic sources.

## No. V.

WE have already remarked that causes of complaint and sources of difficulty between the United States and Mexico were coeval with the declaration of independence by the latter power. A brief review of the history of that nation will furnish a suitable introduction to the more detailed and specific narrative into which we shall be led.

During the tremendous contest in the Peninsula, in which Spain resisted the efforts made by Bonaparte to impose a member of his own family upon the Spanish throne, and to subjugate that ancient and haughty nation to the imperial sway, the most liberal aid was afforded by the American provinces to the mother country. It has been estimated that Mexico alone contributed, within the brief period of a few years, more than ninety millions of dollars to aid in carrying on this conflict.\* On the restoration of peace, however, the friends of liberty found cause to lament the severe disappointment they were doomed to experience. All the glorious hopes in which they had indulged were defeated; all the promises which, in the period of danger and of trial had been so liberally made, were forgotten. Despotism resumed all her authority, and condemned to the most ignominious punishments those who had mainly contributed to rescue their country in the hour of peril. The same disappointments contributed to rouse into a flame the sparks of discontent throughout the American colonies. They were remitted to the tender mercies of their old rulers—their industry repressed, their commerce interdicted, and the ancient colonial policy re-established in all its pristine vigor. The different provinces, hopeless of redress, successively dissolved their connection with the parent country, declared their independence, and asserted the right of self-government. With little concert among themselves, each part in accordance with its own view of policy; and among others, the various contiguous provinces, of which Mexico was the chief, combined in the effort to throw off the galling yoke.

The causes which induced this movement, the principles upon which the contest was to be waged, and, still more, the character of the political institutions which were established, attracted the sympathies of the friends of liberty throughout the civilized world. The close proximity of Mexico to the United States, and the facilities of communication which existed between the two countries, gave an ardor and a strength to this feeling of sympathy, which promised the most auspicious results.

\* Napier's Peninsular War.

When, in 1824, a new Constitution was formed, so striking an analogy existed between the general principles, and even the minute details which characterized it, and those which distinguished our own institutions, that it almost seemed as if every line of distinction and wall of separation were broken down and obstructed. The people of the United States regarded their Mexican neighbors with almost fraternal affection ; exulted in their successes ; mourned at their reverses, and hailed with exultation their final triumph, and the consummation of their struggle for independence. We rejoiced at the anticipation that these new republics, which had imitated our example in emancipating themselves from the oppressive yoke of colonial dependence, under the same circumstances, and upon the same grounds which had governed us—who had laid, in their frame of government, the same broad platform of individual rights which lay at the foundation of our institutions—would be linked with us in bonds, and connected with us by ties and interests, more durable than had ever before subsisted between nations.

So vehement were the feelings thus awakened, that all the energies of the Executive were demanded to keep us within those limits which our neutral relations imposed. Nothing, however, could restrain the demonstrations of private sympathy, or prevent our citizens from participating in the momentous struggle. Multitudes flocked to the new-raised standard of liberty, from the United States, from England, Ireland, France, and Italy, many of whom distinguished themselves in the service, both by sea and land.\* Mexico opened her arms wide to receive all who would come to her from any part of the world.† In this posture of her affairs, she offered every inducement to the emigration, and every facility to the naturalization, of foreigners. Perhaps no nation has ever adopted a more liberal policy than Mexico promulgated upon this subject. By a law passed in 1823, it was provided that “ all foreigners who come to establish themselves within the empire shall be considered as naturalized, should they exercise any useful profession or industry, by which, at the end of three years, they have a capital to support themselves, and are married. Those who, with the foregoing qualifications, marry Mexicans, will acquire particular merit for the obtaining letters of citizenship.” By another law, all the instruments of husbandry, machinery, and other utensils, that are introduced by the colonists for their use, are allowed to be imported free of duty, “ as also merchandise introduced by each family, to the extent of two thousand dollars.”

Stimulated by all these circumstances, large numbers of foreigners, particularly citizens of the United States, emigrated to this inviting coun-

\* Mr. Webster to Mr. Thompson, July 8, 1842.

† Ibid.

try. They established themselves in every part of the dominions of the Republic, and occupied themselves in every department of industry. As merchants along the seaboard and in the cities, as agriculturists and manufacturers, they introduced, with no small amount of capital, skill, industry, habits of business, and skill in all these various avocations. Prosperity began to exhibit itself in every direction ; commerce, liberated from the restraints which had fettered its movements, began to expand, and the immense resources of the country were in a rapid state of progressive development. The trade with the United States rose to upward of nine millions of dollars annually, and largely contributed to the wealth and comfort of both nations.

This prosperous and happy aspect of affairs speedily underwent a change. The bulk of the people of Mexico, trained under the debasing influences of a narrow and rigid despotism, imperfectly comprehended, and were wholly unable properly to appreciate, the fundamental principle of free government. Bigoted, and ruled by an ignorant yet crafty priesthood, they were taught to regard everything approaching to religious toleration with antipathy and abhorrence. Accustomed to habits of indolence, and averse to either bodily or mental labor, they were little qualified to compete with the more energetic and enterprising strangers who had mingled among them. The characters of their rulers were little calculated to inspire respect ; and without any well-established principles of morality, wholly destitute of loyalty to law, disorder and anarchy everywhere appeared and triumphed.

The combined operation of these causes soon began to manifest itself in the bitter hostility which was engendered towards the foreigners who had accepted their hospitable invitations, and confided in their assurances of protection and encouragement. The wealth which was gradually but rapidly accumulating under the productive efforts of exotic enterprise and industry, roused their jealousy and stimulated their cupidity. Enveloped in the gloomiest shades of ignorance, they abhorred the intellectual light which began to shine among them, and to make their "darkness visible." They were unable to perceive or to appreciate the public benefits which were to result from private prosperity and the accumulation of individual wealth. The government was in the hands of men who obtained power by the most nefarious means, and employed it to the most iniquitous purposes. Holding their authority by the most precarious tenure, and wholly unscrupulous in the exercise of it, they were under a sort of necessity to connive at the mal-administration of their nominal subordinates and dependants, and to close their eyes and ears to all the complaints of abuse of power and venal administration of justice. They opened a new career of cruelty and injustice. Beginning

with a few and remote instances of aggression and outrage, impunity in crime only encouraged them to adopt a more comprehensive and systematic plan of iniquity. American citizens were plundered, imprisoned, and murdered, without awaking sympathy or meeting with punishment.

The government of the United States, meanwhile, listened to the recital of the outrages which from time to time reached them, if not with real incredulity, at least with apparent apathy ; sought apologies for misconduct when the facts could no longer be denied, in the disorganization of public affairs, and the lawlessness of individuals amid the embarrassments of political revolutions. They were unwilling to censure in too harsh terms the irregularities, as they were mildly called, which were charitably attributed to inexperience in the administration of government, and they forbore to exact immediate and ample reparation for wrongs, the existence of which could no longer be denied.

This course of policy, and the consequences to which it led, will be more fully developed in our succeeding number.

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#### No. VI.

In the prosecution of the suggestion with which our last number closed, it will perhaps be found most expedient and convenient to place in juxtaposition some of the passages, in which our most distinguished public functionaries have exhibited their views of the general conduct of Mexico in her relations with the United States, and then to produce, somewhat in detail, the facts and circumstances upon which those opinions were formed. In both of these branches of discussion, we feel ourselves encumbered with the mass of material which lies before us ; and being driven to make a selection from the cumbrous heap, we shall necessarily be forced to leave half the story of our wrongs untold.

Although not the first in time, yet, from its comprehensive summary of the facts which had preceded and occasioned it, we shall commence our selection with the special message from President Jackson to Congress on the 6th February, 1837, 24th Congress, 2d session, House Document, No. 139. In this paper, the President informs Congress that he had been disappointed in the hope he had entertained of bringing our claims upon Mexico to an amicable adjustment by the exercise of great forbearance. He then proceeds : " Having in vain urged upon that gov-

ernment the justice of those claims, and my indisputable obligation to insist that there should be no further delay in the acknowledgment, if not in the redress, of the injuries complained of, my duty requires that the whole subject should be presented, as it now is, for the action of Congress, whose exclusive right it is to decide on the further measures of redress to be employed. The length of time since some of the injuries have been committed—the repeated and unavailing applications for redress—the wanton character of some of the outrages upon the property and persons of our citizens—upon the officers and flag of the United States—~~independent~~ of recent insults to this government and people by the late extraordinary Mexican minister, would justify, in the eyes of nations, immediate war. That remedy, however, should not be used by just and generous nations, confiding in their strength, for injuries committed, if it can be honorably avoided; and it has occurred to me, that, considering the present embarrassed condition of that country, we should act with both wisdom and moderation, by giving Mexico one more opportunity to atone for the past before we take redress into our own hands. To avoid all misconception on the part of Mexico, as well as to protect our own national character from reproach, this opportunity should be given with the avowed design and full preparation to take immediate satisfaction, if it should not be obtained on a repetition of the demand for it."

President Van Buren, in his message of December 5, 1837, thus adverted again to the subject: "The aggravating circumstances connected with our claims upon Mexico, and a variety of events touching the honor and integrity of our government, led my predecessor to make, at the second session of the last Congress, a special recommendation of the course to be pursued to obtain a speedy and final satisfaction of the injuries complained of by this government and by our citizens. He recommended a final demand of redress, with a competent authority to the Executive to make reprisals, if that demand should be made in vain. From the proceedings of Congress on that recommendation, it appeared that the opinions of both Houses of the Legislature coincided with that of the Executive, that any mode of redress known to the law of nations might justifiably be used."

After stating what had occurred in the interim, he observes: "I regret, therefore, the more deeply to have found, in the recent communications of that government, so little reason to hope that any future efforts of mine for the accomplishment of those desirable objects, would be successful. Although the larger number, and many of them aggravated cases of personal wrongs, have been now for years before the Mexican government, and some of the causes of national complaint, and

those of the most offensive character, admitted of immediate, simple, and satisfactory replies, it is only within a few days past that any specific communication in answer to our last demand, made five months ago, has been received from the Mexican minister. By the report of the Secretary of State, herewith presented, and the accompanying documents, it will be seen, that for not one of our public complaints has satisfaction been given or offered ; that but one of the cases of personal wrong has been favorably considered ; and that but four cases of both descriptions, out of all those formally presented and earnestly pressed, have, as yet, been decided upon by the Mexican government." In concluding his remarks upon the subject, Mr. Van Buren, after drawing the attention of Congress to the demand which, under its sanction, had been made, and referring to the documents communicated to show with what little success, says : "On a careful and deliberate examination of their contents, and considering the spirit manifested by the Mexican government, it has become my painful duty to return the subject as it now stands to Congress, to whom it belongs to decide upon the time, the mode, and the measure of redress."\*

The report of the Secretary of State, accompanying this message, furnishes a more detailed narrative of the progress and state of the controversies between the two governments. The summary which he gives in the concluding part of this paper is sufficiently condensed and impressive to require a full quotation. "The relations of the United States and Mexico, as they now stand, are these : The demand of the United States for justice for past injuries has been made in conformity with the treaty between the two nations ; but apparently no public complaint has been examined by the Mexican government, except the conduct of Mr. Gorostiza. The printing and distribution of his offensive pamphlet is approved by his government, as comfortable to what was required by its dignity and interests.

"To the other demands of a public nature, which existed at the adjournment of the last annual session of Congress, after five months' delay, no answer has been given. On three cases of private claims, presented for final answer, answers have been given. The justice of two of them is denied, although one of them rests on a decree of the Mexican government. Satisfaction for the one admitted to be just, is not made. The Congress of Mexico, who have been considering the subject for eight or ten years, will be invited to pass upon it when they meet. Since the last session of Congress, an embargo has been laid on American vessels in the ports of Mexico ; although raised, no satisfaction has been made or offered for the resulting injuries. Our merchant

\* 25th Congress, 2d session, House Doc. 3.

vessels have been captured for disregarding a pretended blockade of Texas ; vessels, and cargoes, secretly proceeded against in the Mexican tribunals, condemned and sold. The captains, crews, and passengers of the captured vessels, have been imprisoned and plundered of their property ; and after enduring insults and injuries have been released without remuneration or apology. For these acts no reparation has been promised, or explanations given, although satisfaction was, in general terms, demanded in July last. From these facts, a judgment may be formed of the value of the assurances that have been received from the Mexican government, and the probability of their being ever fulfilled."

How far Mr. Forsyth's anticipations were justified by previous events, and to what extent they were verified by subsequent circumstances, will hereafter appear.

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### No. VII.

THE messages of Presidents Jackson and Van Buren, with the mass of documents upon which their views were formed, were referred to the Committees of Foreign Relations of both Houses, and received from them full consideration. A copious abstract of some of the reports of these committees will show in what light the legislative department of the government regarded this subject.

On the 19th of February, 1837, Mr. Buchanan, from the Senate Committee, submitted a report in which it is, among other things, said :

" From the documents submitted to the Committee, it appears that, ever since the revolution of 1822, which separated Mexico from Spain, and even for some years before, the United States have had repeated causes of just complaint against the Mexican authorities. From time to time, as these insults and injuries have occurred, demands for satisfaction and redress have been made by our successive public ministers at the city of Mexico, but almost all these demands have hitherto proved unavailing."

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" It might have been expected that, after the date of the treaty of amity, commerce, and navigation concluded between the two Republics on the 5th April, 1831, these causes of complaint would have ceased to exist. That treaty so clearly defines the rights and duties of the respective parties, that it seemed almost impossible to misunderstand or to mistake them. The committee, notwithstanding, regret to be com-

elled to state that all the causes of complaint against Mexico, which have been specially noticed in the correspondence referred to them, have occurred since the conclusion of this treaty."

"If the government of the United States were to exact strict and prompt redress from Mexico, your committee might, with justice, recommend an immediate resort to war or reprisals." The committee then gives its "hearty assent to the sentiments contained in the Message of the President," and "suggests the propriety of pursuing the form required by the 34th article of the treaty with Mexico, in all the cases to which it may be applicable. This article provides that 'if (what indeed cannot be expected) any of the articles contained in the present treaty shall be violated or infraacted in any manner whatever, it is stipulated that neither of the parties will order or authorize any acts of reprisal, or declare war against the other, on complaint of injuries or damages, until the said party considering itself offended, shall have first presented to the other a statement of such injuries or damages, verified by competent proofs, and demanded justice and satisfaction, and the same shall have been either refused or unreasonably delayed.' After such a demand, should prompt justice be refused by the Mexican government, we may appeal to all nations, not only for the equity and moderation with which we have acted towards a sister Republic, but for the necessity which will then compel us to seek redress for our wrongs, either by actual war or by reprisals."

On the 24th February, 1837, Mr. Howard, from the Committee on Foreign Relations of the House of Representatives, submitted a report on the same subject. It says, that "The history of the relations between the United States and Mexico exhibits an unbroken succession of good feelings, and as far as the occasion permitted, of kind offices on the part of the American government following out in this, as in other respects, the disposition and wishes of the people. The first to recognize Mexico as an independent power, the government of the United States has been among the first in the unceasing manifestation of friendship to this adjacent North American government.

"At an early period of her struggle for independence, the ports of the United States were open to her flag, even at the hazard of incurring responsibility for this act of impartial neutrality. But the committee perceive with profound regret, that, on the part of Mexico, there has been a long train of injuries to the American citizens and insults to the national flag, for which redress, though often promised, has seldom been obtained. This omission has doubtless proceeded, in a great measure, from the unsettled condition of the Mexican government, the numerous and radical changes which have prevented a fixed policy from being

pursued in its foreign affairs. But the committee believe that it has also sprung, in part, from a knowledge of the form of our government, and the limited power of its executive branch."

After corroborating this conclusion by referring to cases in which other powers under whose institutions the Executive could more promptly and efficiently assert the national honor and rights, had been more successful in obtaining redress for the injuries which they had sustained ; and that in our own case, when reparation for an insult was required by the commander of a naval force, assurance was given that the Mexican functionary who had perpetrated the outrage, had been removed from his post, and promises made that the subject should be investigated and the culpable parties punished, yet as soon as the squadron had departed from the Mexican shores, the displaced officer was recalled into service, and assigned to another command " where his hostile feelings might again endanger the security of American citizens or property."

In a subsequent part of this report, the committee show that this reasonable anticipation was speedily realized, by the arrest and imprisonment of eight seamen attached to one of our public vessels ; the prevention of the American Consul from visiting them whilst sick and in prison, which is denounced as an act of unpardonable inhumanity ; which proceedings, say the committee, " appear to have proceeded from the same officer whose fictitious punishment, but real promotion, had been offered as an atonement for a previous insult to the American flag."

" Looking," say the committee, in continuation, " through the catalogue of complaints which the United States have to make against Mexico on their own account, as the party whose dignity and honor are assailed, the committee are unable to perceive any proof of a desire on the part of the Mexican government to repair injury or satisfy honor. The merchant vessels of the United States have been fired into, her citizens attacked, and even put to death, and her ships of war treated with disrespect, when paying a friendly visit to a port where they had a right to expect hospitality." In concluding the report, the committee observe, that " they fully concur with the President, that ample cause exists for taking redress into our own hands, and believe we should be justified in the opinion of other nations for taking such a step. But they are willing to try the experiment of another demand, made in the most solemn form, upon the justice of the Mexican government, before any further proceedings are adopted. It is their opinion, that a diplomatic functionary of the highest grade should be appointed to bear this last appeal, whose rank would indicate at once the importance of his

mission and the respect in which the government to which he is accredited is held."

We have shown in a preceding number, that the Executive acted upon the recommendation of Congress in making another effort to induce Mexico to recognise the obligations of justice and of treaty stipulations, and that this experiment proved fruitless and unavailing. The subject again came under the consideration of Congress at the instance of the Executive, and on the 7th July, 1838, the Committee on Foreign Relations again submitted their views in the shape of a report. After recapitulating, in a brief but distinct narrative, the circumstances of the case up to the termination of the preceding Congress, the committee proceed "to review briefly what has since occurred." Reference is made to the report of the Secretary of State, already cited, for the mode in which this demand was made, and the facts which attended and followed it. A more extraordinary developement of insincerity and bad faith, of prevarication and duplicity, was, perhaps, never exhibited. Insults and injuries continue to occur; reparation is delayed under the most frivolous pretexts; the Mexican Executive is shown to give statements to its own Congress different from, and wholly irreconcilable with those made to our government, and its whole conduct is demonstrated to be marked by characteristics which, in private society, would debar the guilty party from farther connection with men of probity and honor.

Mr. Cushing, a member of the committee, made a minority report, which dissents, in some respects, from the majority. He, however, "concurs in the opinion that the Mexican government, by a series of acts, part aggressive on the rights of individual citizens of the United States, and part immediately affecting the national dignity and honor, and by delay to make reparation in the premises, has given to the United States cause of resort to measures of public remedy, if other circumstances did not render such a course at present impolitic and unjust on the part of this government." Mr. Cushing perceived, in "the prolonged war of independence," and "in the civil anarchy which accompanied and followed that war," a palliation of the irregularities which have marked the foreign relations and diplomatic intercourse of that Republic. He perceived a further palliation "in events connected with the establishment of the independence of Texas." Mr. Cushing deems this, however, "no sufficient answer to the causes of complaint alleged by the United States," and the reasons he assigns for this opinion are peculiarly pertinent to the questions now in agitation between the two countries. The grounds taken are these: "because some of the injuries sustained by us date back anterior to the commencement of the civil war in Texas, and others of a later date are wholly independent of that

fact ; and because, whatever reason the Mexican Republic may have to take umbrage at the conduct of the citizens or the government of the United States, in reference to that or any other matter, it surely behooves her to seek redress through negotiation, or other direct ways, sanctioned in the usage of nations, rather than by occasional acts of public or private resentment."

These views are well deserving of a more enlarged discussion, have a powerful bearing upon the questions now in controversy between the two nations, and involve some of the most important questions in public and international law. Being at present limited to a simple narrative of the events which have transpired, and the views taken by those clothed with public authority, the discussion of these topics must unavoidably be deferred, and this number of our series shall conclude with the final paragraph of Mr. Cushing's minority report :

"The undersigned at the same time declares that if, however the reverse shall hereafter appear, and it shall prove (contrary to his expectations) that the Mexican government, not content with having persisted in so many acts injurious to the United States, has added thereto the aggravation of procrastinating redress by insincere and perfidious pretences of accommodation, he shall consider it the right of the federal government to pursue, in that event, the most prompt and decided measures for amply vindicating the interest and honor of the United States."

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### VIII.

THE energetic movements of the Executive, and the decided language of the two branches of the legislative department of the government, were calculated to rouse Mexico from her apathy, and produced a brief impression upon that government. She despatched a minister to the United States, disavowed the offensive conduct of her representative at Washington ; and negotiations were resumed for the purpose of adjusting the matter in controversy between the two powers.

On the arrival of Mr. Martinez (the new envoy) in Washington, communications were opened between him and Mr. Forsyth, and the proceedings will be found at length in 25th Con. 3d sess. House doc. No. 252. On the 29th August, 1838, Mr. Martinez presented to Mr. Forsyth an "informal memorandum," containing a *projet* for the contemplated arrangement, consisting of eight articles. Of these, only one related to claims which "Mexico has brought, or may bring, against the United

States," proposing the submission of them to the decision of the commissioners to whom the American claims were to be referred for adjudication. This allusion to the claims of Mexico upon the United States, it will be perceived by reference to the document cited, was couched in the most general terms, and was unaccompanied by any specification of their nature, character, or extent. In the "informal memorandum presented in reply by Mr. Forsyth" on the 31st August, the Secretary of State says: "We are not apprised of the existence of any claims of Mexico upon the United States."

It is further to be remarked that, through the whole course of the correspondence between the representatives of the two governments, in the arrangement which, so far as regards the pecuniary claims of American citizens upon Mexico, was agreed upon as early as the 3d September; and in the convention itself which was signed by the respective parties on the 10th of September, not the slightest allusion is again made to any causes of complaint on the part of either the government or the citizens of Mexico against the government or citizens of the United States. This is a most pregnant circumstance. It cannot admit of question that, if such causes of complaint existed, they would have been urged with all the strength which could be given to them at such a period; and it is calculated to awaken surprise, if, when Mexico was thus reluctantly yielding to the imperative demands upon her to make provision for the adjustment of the claims existing against her—when these claims of the American government for matters involving national honor were especially excluded from this arrangement, and reserved for future and diplomatic settlement—that she never breathed a whisper with regard to any counter claims, of the existence of which she had been apprised that we were, up to that moment, utterly ignorant, and which, therefore, if she supposed such to exist, it was her business, as well as interest, to state fully and distinctly.

The date of this correspondence and convention—August and September, 1838—are important circumstances in the historical narrative in which we are at present employed. Up to this period the United States was wholly ignorant of any pretension of claim by Mexico for national wrongs or insults; and although invited by this declaration to announce them, they were significantly silent. It is not merely the poet, but the lawyer and the statesman, who tell us there is a "silence that speaks." The convention which recognised the existence of claims of citizens of the United States upon the government of Mexico was signed on the 10th day of September, 1838; and by the 12th article it was provided that the ratification should "be exchanged at Washington within five months from the signature, or sooner, if possible." It was duly ratified,

with the sanction of the Senate, by the Executive of the United States, and this fact communicated to the Mexican authorities. The American Secretary of State was informed, by the Mexican minister who conducted the negotiation, that he believed the President of the Mexican Republic "had full power to ratify the instrument without a reference of it to the Legislature."\* Every facility had been afforded by the authorities of the United States to transmit this convention to Mexico, as appears by the letter of acknowledgement of these kind offices by Mr. Martinez, in his letter of September 26, 1838; and, in consequence of these aids, it arrived in Mexico in due time; our representative was assured that it would be laid before the new Congress for its ratification.† But, after requesting again the assistance of an American man-of-war, to convey the ratification to the United States, the Mexican Secretary, in reply to an offer to furnish him with the facility he requested, informed the American consul that "a difficulty had presented itself against the ratification, namely: that the King of Prussia had refused to act as umpire in the differences that might be referred to him, growing out of the convention." It is manifest that, had such been the fact, it furnished not the slightest or least plausible pretence for the act which it was adduced to justify. The nomination of an umpire was by no means an essential article of the arrangement: that might have been, as convenience dictated, postponed. It was deeply important, however, that the fundamental provisions of the convention, which had been deliberately agreed upon, should be conclusively adjusted.

But, unfortunately, there exist strong reasons to believe that there was no foundation in truth for the assertion. As late as February 11, 1839, in communicating to Mr. Forsyth the fact that the ratification by his government had not been transmitted to him, the Mexican minister indicated his ignorance of such a fact, and explicitly says, "that he is well persuaded that the delay in the receipt of this document proceeds wholly from the deplorable condition in which things are well known to be in his unfortunate country." The only evidence of the refusal of the King of Prussia to execute the functions of umpire, for which office he had been selected by the parties, is contained in two letters from Mr. Jones to Mr. Forsyth, under date of the 10th January, 1839, and of the 19th of the same month, in which he says that it had been mentioned by the Mexican minister. It was then designated by Mr. Jones as a "frivolous obstacle;" and Mr. Tornel was informed that it could not constitute "any solid ground for the non-ratification," as it might "easily be obviated by inserting a clause for the substitution of another umpire.",

\* Mr. Forsyth's Report to the President, February 27, 1839.

† Mr. Jones to Mr. Forsyth, December 31, 1838.

Mr. Tornel further said, "that he and the President (Bustamanta) had written on the subject to the president of the United States and Mr. Forsyth." As, however, no such letters were communicated to Congress, it is to be inferred that none such were ever received.

In this state of affairs, the subject was again taken into consideration by the Committee on Foreign Relations of the house of Representatives. In the report from this committee, submitted on the 2d of March, 1839, they consider the reasons assigned by Mexico for her omission "as altogether insufficient and unsatisfactory;" and, in reference to that excuse which relates to the refusal of the King of Prussia to act, they add, "but as no direct information of this description has reached the United States, the committee think some error must have occurred, as the good understanding between Prussia and the United States would, in all probability, have induced a communication to the United States as well as Mexico, if the arbitration had been declined."

Negotiations were, however, resumed; and, on the 11th of April, 1839, another convention was signed by the ministers of the two powers, which, in its preamble, places the non-ratification of the convention of the preceding September "on the alleged ground that the consent of his Majesty, the King of Prussia, to provide an arbitrator to act in the case provided by said convention could not be obtained." The 7th article of this convention, then, in the same terms as the preceding, provides for the reference of the points upon which the board may differ, to the umpirage of the individual who may be designated by the King of Prussia to perform this office.

This convention, signed on the 11th of April, 1839, provided that it should be ratified, and that the ratifications should "be exchanged within twelve months from the signature, or sooner, if possible." Again, the United States acted with promptness and good faith, and ratified the arrangements; while the government of Mexico, pursuing its accustomed dilatory and procrastinating policy, postponed its action to so late a day, that the ratifications were only exchanged on the 8th of April, 1840—leaving but three days of the twelve months, limited for that act, unexpired.

The proceedings which followed the consummation of this convention will form the next topic for our consideration.

## No. IX.

THE convention between the United States and Mexico, signed on the 4th of April, 1839, the ratifications of which were exchanged on the 8th April, 1840, opens a new chapter in the history of the relations between the two governments. This chapter, though furnishing new details and presenting new evidences of wrong and contumely, yet exhibits the same general characteristics which have marked every part of the conduct of Mexico.

On the 10th of July, 1841, the President, in compliance with a resolution of the Senate, transmitted to that body a message, conveying the information in his possession as to the progress and actual condition of the commission then in session under this convention. It covers a report of the American members of the board to the Secretary of State, under date of the 26th May, 1841. This report, made by Gov. Marcy and Judge Rowan, the commissioners on the part of the United States, discloses many facts which it is important to notice in the discussion we have undertaken.

The third article of the convention provided, that the board should meet in the city of Washington within three months after the exchange of ratifications, and, within eighteen months from the time of its meeting, should terminate its duties. The Secretary of State was required to give notice of the time of meeting in two or more newspapers. The day appointed for the meeting was the 8th of July, 1840. The American members having met, and having waited until the 25th of that month, without either they or the Department of State receiving any information as to the Mexican members, or when they were expected to arrive, they adjourned till the 17th August. In the meantime, the Mexican gentlemen had arrived; the board met; and a week was consumed in overcoming the preliminary difficulties started by these members of the board. Another obstacle was immediately after presented from the same quarter, deeply involving the interests of the claimants and the fundamental principles of justice. The Mexican commissioners "held that the two governments were to be regarded as the litigant parties before the board, and denied to the claimants all access to it, in person or by their agents, and even the right to present, or transmit directly to it any paper, document, or written proofs; and they consequently objected to, and voted against every rule or regulation that proposed to give to, or recognize in, the claimants, the right to appear before the board, or to

address any communication to it. These views the undersigned considered to be erroneous, and they believed, that the adoption of them would be very prejudicial, if not entirely destructive, to the interests of the complainants."

The discussion of the matter continued from the organization of the board in August, until the seventh of October following, when all prospects of an agreement being abandoned, and the question not being one which the convention permitted to be referred to the umpire, the American commissioners yielded, as the only means of preventing the object of the board being frustrated. In consequence of these delays, the 23d of December passed without the parties, whose claims were to be investigated and adjudged, having received any notification of the manner in which their cases were to be presented, or the proceedings of the board to be conducted. More than four months, of the eighteen limited for the existence of the board, were thus wasted without making the smallest progress in the business intrusted to it.

In consequence of a vacancy created by the resignation of Judge Rowan as a member of the board, Judge H. M. Breckenridge was appointed to supply the vacancy; and on the 23d April, 1842, having closed their sessions, they transmitted to the State Department a report of their proceedings. This report exhibits, in part, the means employed by the Mexican functionaries to delay the decision of causes, to pervert the ends of Justice, and the audacity with which they put at defiance even the semblance of impartiality and fairness. The board expired by the terms of the convention which created it, without disposing of the business for the adjustment of which it had been organized, on the 25th February, 1842. Messrs. Marcy and Breckenridge expressly declare that "to the long delay, in the first place, in determining upon any mode whatever by which the business could be conducted, and then to the indirect and circuitous manner to which the claimants were eventually obliged to resort for the purpose of getting their papers and documents before the commissioners, is, in our opinion, to be ascribed, in some measure, the failure of the commission to examine all the cases before it, and to present them to the umpire in season for his decision thereon.

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Many of the cases, presented to the board in sufficient time to have been fully acted upon, were suspended; some of them at the instance of our Mexican associates, for the purpose of getting documents from Mexico." "In one important case, the requisitions for documents were not forwarded by the Mexican government, and for want of them, being such as we believed Mexico was bound, under the convention, to furnish, the case was not submitted to the umpire, and in our opinion could not

have been, without jeopardizing the right of the parties interested in the claim."

In consequence of the delays and embarrassments thus interposed, a large majority of the claims were not finally passed upon by the board, and the unfortunate claimants, whose cases were thus left undecided, have already waited another three years, without any effective steps being taken to bring their affairs to settlement.

Two circumstances are adverted to by the American commissioners, which peculiarly merit notice, as illustrative of the principles which Mexico brought into this investigation, and the high-handed course with which her officers conducted themselves. The first that will be alluded to, though more particularly associated with an individual case, yet, in some of the points most deserving of reprobation, was by no means an insulated one.

An American citizen, who had been a resident merchant in Mexico for several years, presented a claim upon Mexico to a large amount. To a considerable extent, the claim was for an indemnity for losses alleged to have been sustained by the illegal acts of several judicial and ministerial functionaries, by the perversion of authority by the officers of justice, and by spoliations of property, under color of law, but in manifest violation of it. Such a claim necessarily involved a critical and extensive examination into the proceedings of the courts and officers whose acts were complained of. By the provisions of the convention under which the board was organized, the Mexican government stipulated to furnish such documents and proofs as might be in her possession, which might be necessary to substantiate the claims against her. The necessary requisition was prepared and sent, and duly transmitted to Mexico, where, notwithstanding all the delays interposed by the Mexican commissioners, it was received nine months before the board was to conclude its labors. The documents called for were minutely described, and the particular public offices where they were to be found precisely designated. They were twenty-one in number. Of these, no notice whatever was taken of twelve; and papers purporting to be those described in the remaining nine specifications, when they came to be examined, were discovered to be, to a great extent, both false and imperfect. The American commissioners specified five of these documents, thus stamped with discredit on their face, and pointed out in detail the proofs of their falsification. They draw, from the circumstances which they detail, these three conclusions:

"1st. That Mexico has wholly omitted to send even a moiety of the documents which she has bound herself by the convention to furnish;

and that no reason for this non-compliance with the terms of that convention are given by her to the board.

2d. That several of the documents actually sent are, on the face of them, not full records, but refer to other acts which ought to appear in the same, but do not.

3d. That there are discrepancies between documents thus transmitted from Mexico, and others equally authenticated, which, without explanation, mutually destroy each other's credit."

In consequence of these acts of omission to comply with a solemn treaty stipulation, and the fraud attempted to be perpetrated by Mexican functionaries, in imposing surreptitious papers upon the board of commissioners, the case was left undetermined. Thus, and by such means, a claim, estimated by the American commissioners at upwards of \$690,000, and so stated by them in their official report, with all the accumulation of interest from February, 1842, has been thus far lost to an American citizen, stricken down from affluence to penury by the atrocious acts of the Mexican government and functionaries. Nor did the outrage end here. As has been stated, the American commissioners, in a paper, understood to have been drawn up by Judge Marcy, the senior member of the American commission, and eminent for his judicial accomplishments and experience, designated five particular documents, as exhibiting on their face, defects and contradictions. At the termination of the sittings of the board, the Mexican commissioners, against the earnest remonstrances of their American associates, laid hands on these spurious papers, containing on their face the proof of the frauds thus attempted to be perpetrated by the Mexican authorities, who had transmitted them as genuine ; and, notwithstanding the distinct opposition made by Mr. Webster, then Secretary of State, removed them beyond the control of the government of the United States. Not satisfied with thus bearding our own government in the heart of its own capital, they intimate, in reply to Mr. Webster's remonstrance against this conduct, that they have abstracted or removed only six of the papers, specifying the same five which Governor Marcy had condemned, and assign as their justification, that they were original *expedientes* (records) from courts of Mexico, which, on account of their character, ought to remain in their hands. It may not be unimportant to add, that these are not the only documents thus abstracted, and that not one of the five either was, or purported to be, an original *expediente* ; nor was an original asked for in the requisition.\*

The comments of Mr. Upshur, on this matter, in his despatch to Mr Thompson, of July 25, 1843,† shows the views taken of these acts of

\* 27th Con., 2d Session, Senate Doc. 320. † 23th Con. 2d Session, House Doc. 158

high dignitaries of Mexico by the American government. "The conduct of Mexico, as it seems to me, had made it the duty of the United States to insist on prompt and specific relief, so far as this case is concerned. She has rendered herself liable to the charge of having broken her faith, and disregarded her obligations. She has not complied with a single stipulation of the convention of 1839. She has not even *professed* to have produced a large number, nearly half (more than half) of the documents called for; and many of those which she did produce, were either imperfect, or grossly falsified. The American commissioners complained of this, but without redress; and, to add to the injuries and contemptuous conduct of the Mexican commissioners, they took back with them, against the consent and remonstrances of the American commissioners, and of the Secretary of State, all the falsified and imperfect documents which they had submitted. All this will fully appear from the enclosed extracts from the proceedings of the board. It is quite evident that, so far as the claimant is concerned, he can have little hope of success before any new commission. He must necessarily rely upon the same evidence which he has heretofore applied for in vain; and he must make his demand on the same government, which has heretofore treated the same demand with neglect and contempt. He can have no security whatever, that he will receive from a second commission a more just treatment than he received from the first. If he should be compelled to submit his claims *de novo*, and upon the same principles which governed the former imperfect and unfair consideration of it, there is no reason to hope for anything better, than a repetition of the same unjust treatment which he has heretofore received.

"And how stands our government in relation to this matter? We have undertaken to see justice done to our injured and complaining citizens. We have demanded justice of the Mexican government. We have entered into stipulations with that government, by which a fair and honorable adjustment of all these matters might be had. Mexico, by her own act, came under a new obligation. The debt which she owed to our citizens she guarantied by a solemn compact with our government. On our part, we have kept our faith; while she has broken hers. This has changed the whole character of the question. Our government is now a party—not in interest, but in honor. We are bound to redress the wrong which has been done to one of our citizens; and this not merely by the general obligation which rests upon every nation to protect and defend its own people, but by the additional consideration that, having undertaken to do this, we are committed in honor not to give back. We must not permit Mexico to retreat from the agreement which

she has made with us, nor to excuse herself from the faithful performance of it."

"In bringing this subject before the Mexican government, it is necessary that you should use a strong and decided tone. Atonement should have been made long ago for the numerous and flagrant wrongs done by that power to citizens of this country. Unnecessary delays must not be submitted to, nor will slight excuses be received. The honor of the government is pledged to our own people for the diligent and proper prosecution of these claims. Mexico can no longer, consistently with her own honor, or the rights of our citizens, or what is due to this government, seek to delay the execution of what justice so plainly requires at her hands."

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## X.

In the preceding numbers, we have presented the history and character of the relations which have subsisted between the United States and Mexico, from the time the latter nation asserted her independence of Spain. Selecting, as our limited space required, only a few among the most prominent circumstances which indicated the disposition of the Mexican authorities, the character of their people, and the tendency of their institutions, sufficient evidence has been adduced to demonstrate that, at least, so far as respects the United States, their conduct has been marked by cruelty, faithlessness, and an utter disregard to all the obligations which the laws of truth and honor impose. The most friendly advances have been returned by bitter resentments ; the solicitations of kindness repelled with insult and outrage ; fair dealing and adherence to truth have been equally lost sight of, in their diplomatic correspondence ; while no respect has been paid to the restraints which humanity or justice imposes upon the actions of men and communities. In one of the most recent official documents, emanating from the government of the United States, upon the subject of these relations, the language of Mr. Webster will be found to corroborate the views taken by other distinguished functionaries of this nation. In his despatch to Mr. Thompson of the 8th July, 1842, in commenting on a communication from Mr. de Bocanegra, Secretary of State and Foreign Relations of the government of Mexico, equally unprecedented and extraordinary in its contents and character, as in the mode of its transmission, Mr. Webster takes occasion to repel some groundless accusations preferred by the Mexican Secre-

tary.\* The United States, he says, "is wholly ignorant of any sacrifices made by Mexico, in order to preserve peace, or of any occasion calling on its government to manifest uncommon forbearance. On the contrary, the government of the United States cannot but be of opinion that, if the history of the occurrences between the two governments, the state of things at this moment existing between them, be regarded, both the one and the other will demonstrate that it is the conduct of the government of the United States which has been marked in an especial manner by moderation and forbearance. Injuries and wrongs have been sustained by citizens of the United States, not inflicted by individual Mexicans, but by the authorities of the government; for which injuries and wrongs, numerous as they are, and outrageous as is the character of some of them, and acknowledged as they are by Mexico herself, redress has been sought only by mild and peaceable means, and no indemnity asked but such as the strictest justice imperatively demanded. A desire not to disturb the peace and harmony of the two countries, has led the government of the United States to be content with the lowest measure of remuneration. Mexico herself must admit that, in all these transactions, the conduct of the United States towards her has been signalized not by the infliction of injuries, but by the manifestation of a friendly feeling and a conciliatory spirit." In an address from Mr. Thompson to the diplomatic corps in Mexico, under date of June 6, 1842, he says: "Not only have we never done an act of an unfriendly character towards Mexico, but I confidently assert that, from the very moment of the existence of the Republic, we have allowed to pass unimproved no opportunity of doing Mexico an act of kindness. I will not now enumerate the acts of that character, both to the government of Mexico and its citizens, public and private. If this government choose to forget them, I will not recall them. Whilst such has been our course to Mexico, it is with pain I am forced to say, that the open violations of the rights of American citizens by the authorities of Mexico have been greater, for the last fifteen years, than those of all the governments of Christendom united; and yet we have left the redress of all these multiplied and accumulated wrongs to friendly negotiation, without having even intimated a disposition to resort to force."

If the representations, which we have furnished of the conduct of Mexico, expressed and reiterated for a long series of years by functionaries of the American government, without distinction of party, be not grossly exaggerated and overcharged, upon what possible ground can the allegations rest which have frequently been made within the last few

months, that our sister Republic is an unoffending neighbor, scrupulously faithful in the maintenance of her faith and in the performance of her obligations, cautiously avoiding furnishing us with any cause of offence, and anxious to cultivate with us the most friendly relations, by the manifestation, on every occasion, of the kindest dispositions towards us. If, on the other hand, these representations do not overstep the bounds of truth, the inquiry naturally suggests itself, has Mexico, in her intercourse with other nations, exhibited the same characteristics, or have they received a different treatment at her hands? If the citizens and government of the United States are the only parties who complain of the conduct of Mexico—if, in her deportment to the subjects of other nations, she gives no cause of offence, suspicions may arise that either our complaints are unfounded or exaggerated, or that some causes must exist for this asperity of feeling and violence of conduct towards us.

Allusion was made in a previous number to the deportment of Mexico towards other nations; and it may perhaps throw a new and distinct light upon the character of that government, if we devote some little time, to an authentic statement of the nature and character of her difficulties with France. We have before us an exposition of those difficulties in an official shape. The document to which we refer is the *ultimatum* of the Baron Deffandis, minister plenipotentiary of France, addressed to the Mexican government, and dated on board the frigate L'Hermione, March 21, 1833. The copy which we have of this paper is a Spanish translation, published by the Mexican authorities in a supplement to the “Al Diario del Sobiano de Mejico” of the 31st March, 1838. From this document we give the following extracts:

“ During the thirteen years which have transpired since regular and continued relations have been established between France and Mexico, a large number of the subjects of his Majesty, established in the territory of the Republic, have found themselves exposed to grave attacks upon their persons and their property.

“ The undersigned, minister plenipotentiary of France, will not stop to detail the particulars of these assaults; which, by their atrocity, would, in the recital, necessarily communicate to this note a character of hostile severity, which he does not desire to give it. For this reason he will not particularize—

“ Either the assassination of Atenzingo, in 1833—in which five Frenchmen, who enjoyed general esteem, and exercised an occupation useful to the community, were decapitated; after which, they were tied to the tails of horses, and dragged (including a female) by persons known to the Mexicans, who performed this act at midday, vociferating death to strangers—an assassination which remains unpunished after a lapse of five years, under the pretext that the judicial forms of the country are slow

and complicated; notwithstanding that, within this period, two Frenchmen, who committed a murder at S. Luis Potosi, on the 21st October last, and shrouded the act in the most profound mystery, were arrested, tried, condemned, and finally executed on the 31st day of the same month, exactly ten days after perpetration of the crime:

“Nor of the butchery (carniceria) at Tampico, in 1835, in which twenty-eight foreigners, among whom were two Frenchmen, made prisoners by Mexican troops, in an attack made by them on the territory of the Republic in favor of Texas, were murdered some days after, being shot down by musketry in a walled yard, in which they were enclosed, like wild beasts. For this act the Mexican government has never been able, although required by France two years since, to show in virtue of what law, or in conformity with what judicial proceedings, these individuals were condemned and executed; a butchery rendered more odious by the impunity extended to Mexican officers who were the associates of these strangers, and by the promotion to the rank of General, of Colonel Gregorio Gomez, he having presided at the council which, to try the accused, limited his acts to the simple order of assassination:

“Nor of the iniquitous and atrocious judgment pronounced by Señor Tomayo, one of the judges of the capital, who, during the last year, condemned to ten years’ hard labor at Vera Cruz (in other words, a frightful death by prolonged suffering), a Frenchman, whom he desired to represent as guilty of homicide, without proof, refusing to receive evidence of his innocence, in violation of all legal forms and of the sacred right of defending one’s self against false accusations:

“Nor of the recently attempted assassination, by Colonel Pardo, commandant of the city of Colima, in a public street, of a Frenchman who exercised the honorable profession of medicine, and who was a director and physician to the hospital in that city, for no other cause than that the Frenchman had refused to lend money to the colonel; from which attempt the colonel escaped only by a kind of miracle, but covered with wounds. For these atrocious injuries he has not only been unable to obtain any redress, but has even been denied protection for the future from the civil and judicial authorities, and thus has been compelled to abandon the country and all the interests he held there.

“The undersigned will not undertake at this time to enter into a detailed relation of many other outrages less execrable, but not less iniquitous, which Frenchmen have been compelled to suffer in their persons and their property. Such a detail would extend this communication to a length which is the less necessary, after the voluminous correspondence which has taken place on the same subject between the French legation and the Mexican government. The undersigned will, therefore, content himself laying down three general categories, under which will naturally be arranged these less odious inquiries to which his countrymen have been subjected.

“1. The sacking and destruction of property, pending the disturbances of the country, which have been done either by the populace or by the

belligerent parties; as for example, the sacking of the Parian in Mexico, in Tehuantepec, in Oajaca, and in Orizava; the mutiny in Mexico on account of the depreciation of the copper currency, &c.

“2. The violent collection of forced loans, in violation equally of all national rights and of subsisting treaties, and not less opposed to natural equity by the unjust partiality manifested in the apportionment.

“3. The denial of justice, judicial acts and decisions, equally illegal and iniquitous, of the administrative authorities, military and civil, as for example, the confiscation, contrary to the maxims of humanity and of the law, of the Republic, of the cargo of Captain Rives, who was wrecked by a tempest on the coast of Mazaltan, involving the death of this Frenchman, which was brought about by the sufferings endured in five anxious years, uselessly expended, in unavailing efforts to obtain that reparation which was unceasingly promised. In this affair, certain employees of the custom-house figured, who subsequently burned their records, and fled to avoid rendering an account to the government.

“Closing, contrary to treaties and laws, the commercial establishment of Mr. Besson, in Bolanos, the imprisonment of this Frenchman by the local authorities, as a punishment for having invoked and obtained the impotent protection of the supreme government. In this case, an officer of the custom-house prominently figured, who was subsequently dismissed for being concerned with a band of robbers, and for his own defalcations.”

This list of outrages will be continued in our next by further extracts from this ultimatum of Baron Deffandis.

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## No. XI.

WE resume the extracts from the French ultimatum, addressed to the Mexican government on the 21st of March, 1838, recapitulating the causes of complaint for which redress was demanded, viz :

“The banishment and ruin of M. Gallix in Tehuantepec, under pretexts which were not stated, and probably not even invented until long after the act was committed, and which were immediately ascertained to be both false and calumnious. In this transaction a judge who had been already condemned by a superior tribunal for prevarication, was a prominent actor.

“The persecution and ruin of M. Darenton, in Tampico, by decisions subversive of the rights of nations, and of the legislation of the Republic. In this affair a judge who had been accused before the tribunals of Vera Cruz, of causing death by poisoning, and had evaded by flight the proceedings directed against him, was conspicuous:

"The sequestration of the goods of Mr. Arbel, in Tampico, at the instance of a party who refused to let it be known who he was, which sentence of sequestration has continued for three years, in consequence of the illegal failure to provide in that department a tribunal of appeal:

"The prolonged imprisonment and barbarous treatment of Mr. Le Dos by the instrumentality of judicial papers, which were forged and recognised as such by the superior judges. In this affair, officers of the army, who constituted the tribunal, figured as those guilty of these falsifications."

The reclamations continually pressed by the Minister of France against these various outrages have been as constantly repelled by the Mexican authorities. If France has been able to obtain occasionally the suspension, for a brief period, of these iniquitous proceedings against her subjects, it has more rarely been able to obtain a cessation of them, and never to procure any reparation for those that had been committed. The continuation during so long a period of such a state of things, can be explained and accounted for only by the continued good feeling on the part of France, and by the change in the systems of negotiation successfully established with her by the Mexican authorities.

The first of these systems consisted in a recognition by Mexico of the justice of the complaints preferred by the French legation; in expressing in stronger terms than even France herself employed, the indignation felt by Mexico for these outrages upon the subjects of his Majesty; in palliating every case of wrong, by urging the limited advance which the country had made in civilisation, the civil dissensions, together with the errors and defects in the legislation, the imperfect organization of the administration, as well of the army as of the tribunals of justice, the inexperience of the public functionaries of all classes, &c.; and finally, and above all, this system consisted in the promise of reparation, imploring, however, delay, in consequence of the deranged state of their finances, which entreaties the generous and friendly disposition of France would not permit her to refuse.

The second system has had a more recent origin, and a more brief duration. It has had several bases in succession.

1. To make these complaints the subjects of discussion, which promised to be never-ending from the unheard-of dilatoriness with which the Mexican ministry furnished their communications on the application of the principles of the universal rights of nations, which the French legation had cited to sustain its reclamations.

2. When these discussions, and all the delays which Mexico could interpose were brought to a close, by answering these references to the universal law of nations, by opposing to them the Mexican rules of law, and by repelling every description of complaint for the denial of justice,

illegal sentences, scandalous exactions of certain magistrates upon the sole reason that, under the Mexican Constitution, the judicial power was independent of the Executive, which had authority only to call into action the administration of justice, but none to direct or supervise whatever might be the causes of complaint against the judges, or whatever might be the proofs by which they were sustained.

3. To elude the objections urged against these novel doctrines by the most trifling and dilatory answers, or by a silence absolute and continuous, and conniving at the same time at the repetition of similar acts as those in which these complaints had originated.

4. To stigmatize as false and calumnious the reclamations of the subjects of France against the different authorities of the Republic, without discussing either the acts or the proofs which established these outrages, and satisfying themselves with the pure and simple denial of the allegations by the parties inculpated.

5. To indicate, at times, the intention of exciting against the French claimants fresh persecutions, for the purpose of stifling their complaints, or at least of abandoning them to the tender mercies of the very parties whose conduct gave rise to the reclamation.

6. To denounce, without any discussion of the allegations themselves, or of the proofs by which they are sustained, as offences against the Mexican people and government, the complaints of the French legation on behalf of their fellow subjects, and, under this pretext, to employ language insulting to the legation, and sometimes even to its government.

7. Finally, and to complete this system of operation, to repulse in mass the reclamations of France and the principles upon which they rest, suggesting, on the other hand, the preposterous proposition of submitting the entire subject to the arbitrament of a third power, as if the matter merely involved those ordinary questions of doctrine or of interests upon which doubt might be entertained, and, on the contrary, did not grow out of outrages upon the security of persons and of property, which can never be submitted to arbitration in conformity either with public or private right ; or as if the dignity and the obligations of France could ever permit it to submit to a third party, even as a matter of form, (for it is not possible to suppose there can be any diversity of opinion among civilized nations upon such questions), to decide whether the spoilations, the violences, the assassinations of which her subjects have been the victims, are or are not entitled to ample remuneration.

In this summary and somewhat abridged recapitulation of the outrages perpetrated upon the subjects of France in various parts of the Mexican territory, either originally prompted by individuals high in office under

the Mexican government, or subsequently sustained and protected by them, and in the various pretexts and subterfuges to which that government systematically resorted to evade the responsibility which the law of nations attached to such conduct, may be read a brief history of our intercourse with that country. The citizens of the United States who had placed themselves within the Mexican territory were far more numerous than those of any other nation ; they possessed a much greater amount of property to excite the rapacity of these freebooters ; and, finally, there was infinitely less promptitude and energy displayed by our functionaries in the investigation of the circumstances which accompanied these wrongs, and in enforcing compensation, than were exhibited by the representative of any other power ; and, consequently, the list of our injuries is proportionally larger, and the atrocity of the crimes of which Americans have been the victims have been of a deeper shade than those set forth in the French ultimatum. Similar devices and pretexts were resorted to in our case, as in that of France : promises of redress as freely made, and as rarely fulfilled. Parties complaining were subjected to new and more reckless persecutions, the great bulk of American citizens driven from the country, and that commerce which had already reached the amount of nearly ten millions per annum, and which, under more auspicious circumstances, would rapidly have increased, to the mutual advantage of both nations, rapidly fell to about half a million.

We shall next indicate the course which France adopted in this posture of affairs, and the consequences which resulted from it.

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## No. XII.

In continuation of the paper from which we are extracting, the French minister thus proceeds : " In this state of things his Majesty's government, convinced that the Mexican cabinet had sufficiently signified what were its dispositions in respect to the demands of France for the reparation of wrongs inflicted, has ordered the undersigned to present once more, and for the last time, the same demands upon the Mexican government.

" I. The treasury of the Republic shall deliver, prior to the 25th day of May next, on board the French squadron which may then be at Vera Cruz, the sum of \$600,000—the disposition of which sum his Majesty's government reserves to itself, as well as the apportionment among those

Frenchmen who have suffered, within the Mexican territory, injuries sustained under the three heads or classes which are designated.

\* \* \* \* \*

“This payment being made, the Mexican government shall be released from all claims by France, embraced within the said three classes, for causes arising prior to the first day of the present month of March.

“II. The credits which French citizens hold against the Mexican government, are not comprehended within the preceding stipulation, &c.; and the Mexican government solemnly binds itself to interpose no future difficulties in the way of the regular and prompt payment of these debts.

“III. General Gregorio Gomez, who ordered in Tampico the assassination of the two Frenchmen, Deniovesent and Sausieu, shall be deprived of his employment; and there shall be paid, as an indemnification to the families of the two victims, the sum of twenty thousand dollars.

“Colonel Pardo, commandant of Coluria, guilty of the attempt to assassinate and severely wounding M. Giraud Dulong, shall be deprived of his office; and there shall be paid to this Frenchman, for this outrage, the sum of nine thousand six hundred and sixty dollars.

“Senor Tamayo, judge in Mexico, shall be deprived of his office, for the illegal, iniquitous, and atrocious sentence which he perversely gave against M. Petro Lemoine. This Frenchman shall be immediately set at liberty, and shall receive an indemnification of \$2,000 for the prolonged and wholly unjust detention which he has suffered, and the bad personal treatment which he endured in prison. There shall be paid an indemnification of \$15,000 to the families of the Frenchmen who were assassinated with impunity at Atenzingo.

“Those indemnifications provided in this article are included in the sum total demanded in the first article.

“The undersigned has certainly the right—and perhaps it is his duty—to demand the punishment of a number of other functionaries who are designated, for the offences stated; but, availing himself of the discretion reposed in him by his government, he confines himself to the requiring the punishment—exceedingly moderate in its character—of the before-named individuals, whose barbarous conduct is abhorrent to every principle of justice, of morality, and civilisation.

“IV. The most precise and distinct stipulations are required for the future.

\* \* \* \* \*

“Such are the demands which the undersigned, as already indicated, is charged to address once more, and for the last time, to the Mexican government. The present note is an *ultimatum*; and the *determination*

of France, which it explains, is *irrevocable*, to employ the very expressions of his excellency the president of the King's council. The demands contained in this ultimatum have been so repeatedly discussed, under every variety of form, and for so long a time, between the Mexican ministry and the French legation, that the former might certainly be prepared to furnish a categorical answer in forty-eight hours. Nevertheless, the undersigned will await a reply until the 15th of April. If (which God forbid) this reply shall contain a negative upon any one of the points proposed; if even its language shall be ambiguous in any one particular; if, in short, it shall be delayed beyond the 15th of April, the undersigned will immediately place the further conduct of the business in the hands of M. Bazoche, commander of the naval forces of his Majesty, of which a part are already on the coast of Mexico, and this superior officer will proceed to execute the orders he has received. If, on the contrary (and God grant such may be the case), the answer shall be entirely affirmative upon every point, M. Bazoche will then have no part in the business, excepting only in case the promises made by the Mexican government shall not be completely fulfilled on the 15th of May. In any case, however, in which this officer shall be required to act, from the moment that he has begun to carry out his orders, the execution of them cannot be interrupted or suspended without the entire and perfect fulfilment of every requirement of this *ultimatum*."

Notwithstanding the distinct and peremptory language of the French minister, dictating the most precise terms and conditions on which alone hostilities were to be suspended, and prescribing the time in which a categorical answer was to be given, delays nevertheless took place. Mexican diplomacy exerted all its power; the most conciliating language was employed; promises and assurances were given in profusion; and it was not until the following November, that patience and forbearance on the one side, and all the arts of dissimulation and artifice on the other, were exhausted, that France put in execution her threats, opened her artillery upon the castle of St. Juan de Ulloa, speedily brought the Mexicans to terms, and compelled them to pay a further sum of \$200,000, to remunerate France for the money she had expended in the enforcement of her right.

This history has been given somewhat in detail, because the document, from which the foregoing extracts have been made, has been but rarely seen, and is little known in the United States; because nothing can furnish us with more instructive lessons as well, as to the character and conduct of the Mexican people and government. Nothing can more clearly demonstrate that they are restrained by no law, human or divine, from the perpetration of any outrages, however atrocious, upon those

who come within their power ; that their barbarous cruelty in inflicting wrong can be equalled only by their mendacity in evading the consequent responsibility ; and that the only effective mode of obtaining redress for past injuries and preventing the infliction of similar injuries in future, is to employ towards them a firm and decided tone—peremptorily requiring compensation for the past and security for the future, and prepared to enforce upon them an observance of the laws of nations and of humanity, and a rigid compliance with their treaty engagements.

Little doubt can be entertained that, if the first aberrations from these limits had been firmly resisted, and the rights of others rigidly enforced, the consequences would have been equally beneficial to all parties. Mexico, taught that she could not with impunity violate the rights of others, would cautiously have abstained from the perpetration of those enormities which must, sooner or later, be visited with condign punishment ; and adopted a policy which would have entitled her to a position among the civilized nations of the earth.



### No. XIII.

In the exhibition we have made of the intercourse between France and Mexico, it has appeared how gross and violent were the outrages perpetrated by the latter country upon the other ; that these outrages were committed, not by a powerful nation, which, exulting in her own strength, substituted her will for the law, against a weak and feeble party, but by the one which, according to the general laws of human nature, might have been supposed to be unwilling to rouse the resentment of her more powerful opponent, because unable to elude the consequences which a resort to the *ultima ratio* of nations would be sure to bring upon her head—not occasioned by feelings goaded by previous causes of offence left rankling in her bosom, which, blinded by passion, might make a nation, as similar causes sometimes do an individual, blind to results, in his anxiety to punish an insult or an outrage of which he has been the victim. In this case we have seen Mexico, the weaker power, gratuitously, without alleged provocation or cause, beginning and carrying on the wrong against a nation infinitely her superior in physical strength, against one who had uniformly exhibited towards her a mild, beneficent, and forbearing course of policy—against one who had never done her wrong—who had acted as her friend—who was disposed to treat her with kindness, and upon a footing of equality.

Such a review will, therefore, relieve the United States from the

suspicion of having afforded to Mexico any just, or even plausible pretext, for the conduct of which we complain. We were the first to acknowledge her independence, and her right to assume a position among the nations of the world. We extended to her the right hand of fellowship. Our citizens flocked to her shores, and participated with her own sons in the perils of the conflict she was waging for her national existence. We not only did not require at her hands any peculiar commercial privileges in our own intercourse with her, which we might have exacted, and she would, at the time, most willingly have yielded ; but we required that we should be placed only on the footing which other nations were to occupy. Neither the government nor the people of the United States ever gave her cause, either of offence or suspicion. Yet such as has been portrayed, has been the treatment we have experienced.

The governments of Europe are not accustomed as we are to spread before the world the minute and circumstantial details either of their foreign or their domestic policy. But for the publicity given by the government of Mexico to her controversies with France, we should have remained ignorant of the circumstances to which he have had occasion to revert. It is the same with reference to Great Britain. No public rupture has occurred, which has furnished the occasion to exhibit to the world the course of events between her and Mexico, and therefore nothing relating to them can be supplied from published documents. We are, however, in possession of facts which are susceptible of being sustained by authentic proof, which exhibit, in the conduct of Mexico towards England, some cases of wrong ; and in that of Great Britain, the prompt, vigorous, and effective measures which she adopted to obtain redress for injuries that had been inflicted, and to guard against their recurrence. A reference to a few of these facts will show that Mexico was regardful of the rights of foreigners precisely in proportion to the probability of their enforcement ; that her only standard of right was the disposition and the ability of those with whom she acted, to redress wrong ; and that she, by a timely compliance with her engagements and responsibilities, shunned a collision with England which was ready to break upon her head.

In the year 1832, outrages were committed in Tabasco, in which British subjects and American citizens, resident in Mexico, were equal sufferers. They were subjected to heavy pecuniary losses, and to serious personal injuries and insults. In the year 1833, the British minister obtained full redress for the wrongs sustained by his countrymen by the energy, with which he prosecuted his demand for reparation. In 1845, the American sufferers, who participated in these same losses, are still

without remuneration. This is one of the numerous instances in which citizens of the United States, merchants, captains of merchant vessels, and sailors, were subjected to the most cruel abuses, imprisonment, one of them actually murdered ; they endured these evils in common with other foreigners. Those who were under the protection of England and France have been indemnified by Mexico ; but our citizens suffer without redress, and those who perpetrate these outrages upon them escape with impunity. The narratives of Kendall and Gregg show these are not insulated instances.

One other instance will be adverted to, in which the British government, by the decision which marked its course, obtained redress for injuries which its subjects had suffered, without being compelled, as France was, to resort to arms to enforce her rights. In the year 1833, General Arista then commanding a force in opposition to the existing authorities, took about one hundred thousand dollars from an English mining company, which he applied to the payment of the troops under his command. The company called upon the government to indemnify it for this outrage. The demand was refused, on the ground that the nation could not justly be held responsible for the acts of those, who were not only acting without its authority, but in defiance of the constitutional powers of the country. Being, however, urged by the British minister to liquidate this claim—and this was done simultaneously with the demand by an American citizen who had suffered a similar wrong—the Mexican Secretary of Foreign Affairs, in his annual report to Congress, early in the year 1835, presented to the legislative department, in his annual report, the case of the English mining company. He admitted the facts as they have been stated ; but insisted upon the injustice of holding Mexico accountable for an outrage committed by a body of men who were in arms to overturn the government, and upon the impolicy of establishing a precedent in such cases ; that there were many Mexicans who had suffered losses under similar circumstances, who would, with great propriety, regard the allowance and payment to foreigners of such a claim as furnished an example which ought to be followed in reference to them ; and if it were followed out, the means of the treasury would be insufficient to meet the demands made upon it. He also suggested that the case of foreigners could not favorably be distinguished from that of their own people ; that during the commotions which had existed in Mexico, the condition of foreigners was much better than that of the natives—that they had the opportunity of realizing extraordinary profits during such periods of violence and terror, and that consequently they were better able to bear the accidental losses to which they might be subjected, and had the less claim for compensa-

tion for these incidental disadvantages. He further represented that there were numerous cases of claims of a similar character, and that the prompt action of the Legislature upon them was requisite, in order to enable the Executive to return promptly an answer to the parties interested.

The British minister, however, did not think it expedient to await the dilatory action of the Mexican Congress upon this subject; which long experience had taught him would only involve delay. He transmitted a copy of this official communication to his government, with a full statement of the circumstances of the case in which his demand had originated. By the next packet, and before Congress had moved in the matter, he received instructions to apprise the Mexican authorities, that full remuneration must be made to the mining company within a limited and short period, and in the event of non-compliance with this demand, he was instructed to inform the admiral on the Jamaica station of the fact, who had been instructed to act in that case and empowered to employ force in compelling the adjustment. These instructions were communicated to the Mexican government, and within a few months the affair was arranged to the entire satisfaction of the English claimants.

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#### No. XIV.

WE have now rapidly traced the conduct of Mexico to her relations with the various nations with whom she has had intercourse, during the comparatively brief period of less than a quarter of a century, which has elapsed since she began her career as a colony of Spain, asserting her independence of the mother-country and struggling to maintain the position which she had assumed. This review of her conduct is also a delineation of her character. Wholly ignorant of the art of government, her people, suddenly liberated from the shackles of a stern despotism to which they had long been inured, found themselves unrestrained in the exercise of their newly acquired freedom. No longer held in fetters by the arbitrary hand of power, there was no moral force substituted in its stead, to which they even professed allegiance. Equally ignorant, as regards the faculties of their minds and their moral sense, they felt themselves alike incapable of guiding their conduct by the light of reason, and indifferent to the dictates of virtue. They madly, recklessly plunged from one scene of civil turmoil into another; wreaked their

vengeance upon all who fell under their power; preferred the precarious support of pillage and rapine to the plodding routine of industry and integrity; and, while they showed themselves regardless of the ties of affinity and kindred, they looked with especial hatred and jealousy upon all who bore the appearance and exhibited the character of strangers.

Such indications of national character were so anomalous, so at variance with everything to which civilized and Christian men had been accustomed, that the accounts of their proceedings were regarded with incredulity. We could not believe the accounts that were, from day to day, transmitted from this ill-fated country. It could not be credited that those who had been invited to their shores in the hour of peril, who had participated with them in their dangers, who were introducing among them habits of industry, and exhibiting before their eyes the beautiful results of laborious honesty, who were engaged in the development of their abundant resources, and diffusing around them the blessings of tranquil but busy activity, would or could, by these means, rouse their hatred, and bring down upon themselves the dreadful calamities which they were made to suffer.

All foreigners shared alike in these dreadful calamities. Murders and assassinations, plunder and pillage, alike awaited them; and a fearful catalogue of atrocities was accumulated, such as had never before disgraced a nation professing to be governed by the Christian religion, or recognizing the obligations of national law.

With all this, Mexico possesses the constituents of great national power and greatness. Her climate is admirable, her mineral resources immense, and her vegetable productions calculated to be at once the source of wealth to herself and of comfort to the residue of the world.

The other nations of the earth must either exclude her from the rank which she claims among them, or must compel her to observe those laws of the government to which they voluntarily and cheerfully submit. We have seen that, by a timely resort to those measures of coercion which the circumstances of the case rendered necessary, France and England have compelled her to redress the wrongs which she had perpetrated, and to obey that law which she had violated. Were this course universally adopted, Mexico herself would grow richer and happier, as well as better.

In determining upon the course which, under such circumstances, ought to be pursued towards such a nation, the United States, while exhibiting that firmness and decision which become her character and position, is also under high obligations to abstain from every measure which bears the impress of vindictiveness or exasperation. Our rights are clear and beyond controversy; they should be distinctly asserted and

energetically vindicated ; but our strength and power enable us to pursue them with equal dignity of manner and firmness of purpose.

It has been shown, that the claims of the United States upon the government of Mexico, as well for outrages upon the lives, the persons and the property of our citizens, as for indignities, insults and injuries perpetrated upon our government, our flag and our public functionaries, have gradually accumulated in number as in amount. Every new arrival from Mexico brings new intelligence of some fresh wrong ; and while no reparation is made for the past, no security is offered for the future. Years have elapsed since the Executive and Congress concurred in the public declaration, that we should be justified before the world in resorting to arms to redress and punish these atrocities. We have seen that France did adopt this system of operations to redress grievances, not equal to the tithe of what we had suffered ; and that England was only prevented, under infinitely less provocation, from appealing to force, by the prompt and satisfactory adjustment of her demands. We have seen that Mexico, after having recognized the validity of our claims, and given the most solemn assurances that they should be liquidated and settled, has suddenly closed all diplomatic intercourse between the two governments ; withdrawn her own minister from the United States, and declined further communication with our representative. This course has been adopted in consequence of an alleged wrong committed upon her honor and her rights by the action of this country upon Texas. This wrong she chooses to regard as so palpable and so monstrous, that she will not make it the subject of discussion or negotiation. She considers it as admitting neither of palliation, compromise, nor arrangement. We must retrace our steps, undo what has been done, annul our legislative acts and our executive measures, as preliminary conditions to the resumption of friendly intercourse between them and us.

It is needless to say that such demands are as preposterously absurd, as they are insulting to the government of the United States. What we have done, we have done deliberately and advisedly. We have done it with a full persuasion and entire conviction that we have violated no rule of justice, no provision of public law, and done no wrong to Mexico. We have acquired rights and incurred responsibilities which we cannot abandon, and will not shrink from.

At the same time, the United States are willing and desirous to make this controverted subject a matter of friendly discussion, and fair and liberal adjustment. Mexico has declined this proffer, and assumes a ground which can rarely find justification in that code which governs the intercourse among nations. She asserts that her rights are too plain

to admit of question, or to allow of doubt ; and, consequently, that our acts are as palpably and incontrovertibly wrong and indefensible. The government of the United States entertain opinions exactly the opposite ; and no attitude can be assumed by one nation towards another more offensive and insulting, than that which imputes to the other the deliberate perpetration of palpable wrong, and the covering of the injurious act under the mantle of wilful falsehood. Mexico is bound to discuss this question ; and, while insisting upon her own views, to receive, examine, and deliberate upon those which we are prepared to present. In refusing this, she herself commits an outrage.

One thing is at least clear, that whichever party may ultimately be ascertained to be in the wrong in this matter, upon no principle of public law can this subject furnish a justification for her refusal or neglect to repair the injuries she has herself inflicted upon us. She has solemnly recognized our rights as to these causes of complaint ; she has solemnly stipulated to compensate our citizens for them ; she has incurred obligations to the American government ; conferred upon it an unquestioned right, and imposed upon it the corresponding obligation to enforce these rights if they shall be longer disregarded or neglected. These are responsibilities from which neither nation can now honorably disengage itself.

If it be asked, then, what course ought the government of the United States to adopt under such circumstances, the answer is obvious. But one course is left open, unless the claims upon Mexico are abandoned, and, either in direct terms or by necessary implication, it be conceded to her that the treaties between the two powers are virtually abrogated, the compacts between them annulled, and the claims cancelled by the admitted wrong inflicted upon her by our arrangements with Texas. Rejecting this as equally dishonorable and false, but one alternative remains.

A distinct, and peremptory, and final demand should be at once made upon Mexico to fulfil her engagements, to pay the arrears of the indemnity which has already been adjusted, and without further delay to provide for the settlement of the outstanding demands upon her. This should be insisted upon as a *sine quan non*, as an indispensable preliminary to the discussion of any new questions. If acceded to, this cause of controversy may be readily adjusted, and all the remaining pretensions of either party be considered and settled upon fair and liberal terms. If, however, it shall be refused or declined, it will become the duty, as it is the clear right, of the United States, either to follow the precedents established by France and England, of taking the

representations of the injured parties as furnishing the amount of the remuneration to which they are entitled, or to create a home commission, empowered to examine each separate case—to adjudicate upon it in accordance with the same principles which we have asserted and admitted as regards Mexico herself: the amount thus ascertained, to be regarded as finally and definitely fixed, and Mexico required, and, if necessary enforced to pay it.

## MEXICO AGAINST THE UNITED STATES.

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### No. I.

IT seems that the Mexican government has issued a paper, in the nature of a manifesto against the government of the United States, which is couched in the customary language of denunciation employed by the functionaries of that nation, but without indicating very precisely what ulterior measures are contemplated. There is, however, one assertion thus officially promulgated, which we are not sorry to see, because it represents in a tangible form, and under the express sanction of the Mexican Executive, what has before been said from the same source on more than one occasion, and which has unfortunately been received with some degree of credit by others than Mexicans. It is positively averred by that government, that, "on the part of this Republic (Mexico), the existing treaties between it and those (the United) States, were respected scrupulously and legally."

For a complete and triumphant refutation of this mendacious assertion, it would be a sufficient answer to advert to the terms of the treaty, signed on the 11th April, 1839, by the representatives of the two powers, and the proceedings of the board of commissioners appointed under it. That convention provided for the adjustment of the claims of citizens of the United States against Mexico, for injuries perpetrated by the latter upon the former. Those claims were founded upon violations of treaty obligations.

The third article of the treaty between the United States and Mexico, of April 5, 1831, provides that "the citizens of the two countries respectively shall have liberty freely and securely to come with their vessels and cargoes to all such places, ports, and rivers of the United States of America, and of the united Mexican States, to which other foreigners are permitted to come, and to remain and reside in any part of the said territories respectively ; \* \* and generally the merchants and traders of each nation shall enjoy the most complete protection and security for their commerce." Article 14th : "Both the contracting parties promise and engage to give their special protection to

the citizens of each other who may be in their territories," &c. Article 15th : " The citizens of the United States of America, residing in the united Mexican States, shall enjoy in their houses, persons, and property, the protection of the government, with the more perfect security and liberty of conscience." The Spanish version of this article is somewhat different ; the expression of conscience not appearing in it : " Go-zaran en sus casas, personas, y propiedades, de la proteccion de la go-bierno, y continuando en la posesion en que estan."

A large majority of the cases presented before the board were for alleged violations of these treaty provisions. The memorials and proofs filed, and which are now in the Department of State, amply confirm this statement. All merely national outrages were excluded from the operation of this convention, and never were laid before the board.

We have now before us the report of the proceedings of that board. More than nine-tenths of the claims, as has been said, for violations of rights secured and guarantied by treaty ; and several of these allowed as such by the Mexican commissioners, and many more decided by the umpire on this single ground. The claims thus exhibited exceeded ten millions of dollars. Here, then, is a judicial decision, by a board composed one half of Americans and the other half Mexicans, that the assertion now made is utterly destitute of truth.

This instance of mendacity is not unexampled in the history of this people. The report of the Committee of Foreign Affairs of the House of Representatives of July 7, 1838, exhibits another memorable one. The American Secretary had presented a list of fifty-seven distinct cases of claim upon Mexico for illegal outrages. Inquiry into these cases, and redress of the injuries complained of, were profusely promised. After great and unexplained delays, answers were returned in reference to only four ; and, in the interim, the Mexican President promulgates a decree, in which it is positively intimated—1st, That Mexico had offered to submit the claims against her to the decision of a friendly power ; 2d, That, in case the government of the United States should deny satisfaction to Mexico, or delay it, or continue the open aggressions already committed, then that Mexico should close her ports to our trade, with a menance of even harsher measures. The committee show it in the report that no such offer of arbitrament had ever been made, and that no one case had ever been complained of in which any aggression had been committed by the United States against Mexico, nor any one instance in which satisfaction had been required for any pretended wrong. This paper was therefore regarded as an attempt by the Executive of Mexico to throw embarrassments in the way of an adjustment of our demands, by a false effort to induce the Legislature of that country to regard Mex-

ico as the only aggrieved party. The duplicity and mendacity of the Mexican Executive are fully developed in the document referred to

Proof equally conclusive exists in abundance, which we may hereafter deem it proper to adduce.

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## No. II.

On the part of Mexico, her treaties with the United States were respected scrupulously. So asserts the Mexican Executive, in a public proclamation, embodying certain resolutions of the Mexican Congress.

Every American is interested in ascertaining how far this language is warranted by truth. Since the date of the first of those treaties, every President, who has had occasion to allude to the subject—and all have, except Mr. Polk, to whom the opportunity has not yet been presented, but who will, ere long, doubtless, as distinctly declare his views—has averred, in his communications to Congress, that, from the period when Mexico assumed her position as an independent nation, instances were of almost daily occurrence, in which the laws of nations were violated by that power, to the injury of American citizens, and that, since treaties have been formed between the two governments, cases of the infraction of those treaties have been as frequent and as numerous. This was the deliberate language of General Jackson, Mr. Van Buren, and Mr. Tyler. It has been as formally charged by every Secretary of State during the last sixteen years; for there has been no variation in the character of those occurrences. Mr. Livingston and Mr. McLane, Mr. Forsyth, and Mr. Webster, Mr. Upshur and Mr. Calhoun, have each preferred the same high accusation. Nor has this been done, in imitation of the Mexican example, in documents addressed merely to our own people, and prepared only for home consumption, while a different language has been held to Mexico herself.

Mexico has been told to her face, by every minister who has represented the United States at that court, that such has been her course of conduct. Mr. Butler, who negotiated the treaty of 1831, from the moment of its execution, constantly and indignantly complains of its daily violation. Mr. Ellis, General Thompson, and Mr. Shannon, make the same representations. The Committees of Foreign Relations, in the reports of Mr. Buchanan and Mr. Rives of the Senate, and General Howard and Mr. Cushing of the House, all concur in the same opinions. Such complaints, presented in individual cases, fortified by evidence, load the shelves of the Department of State. Several of them have un-

dergone judicial—or rather what would, but for a breach of faith on the part of Mexico, have been a purely judicial—investigation; and Judges Rowan, Marcy, and Breckenridge, have pronounced their judgments, that Mexico has repeatedly violated treaty stipulations, and thus inflicted an immense amount of injury upon citizens of the United States. Over and over again have such cases been admitted by the Mexican authorities; and they have recognized the truth of these accusations, in making a convention to provide for their adjustment, in joining in the decisions of the board of commissioners, and (though certainly to a very limited extent), paying portions of those awards.

Yet, on some occasions, of which we have the evidence, the government of Mexico has unblushingly denied the truth of these allegations; and, doubtless, in other instances, has attempted to deceive the people by representations that all these claims of American citizens were fabricated and fraudulent. It is the duty of every American citizen to ascertain upon which side the truth lies. Have the distinguished men, whose names we have cited, been misled by the false representations of those who profess to have been injured? or have they wantonly, wickedly, and knowingly endeavored to deceive this country, and, on false pretence, to bring out a collision between the two nations?

Our government and our people are equally interested in this investigation. The former are charged with deliberate falsification. The issue must be met; and if this accusation is disproved, the honor of the country imperatively demands that the party who has made it, should be compelled to acknowledge the wrongs she has perpetrated, and compensate the injuries she has inflicted. The issue has been definitely made up. Mexico no longer seeks to exonerate herself from paying a just indemnity to our citizens, because the disorganized state of her affairs prevented the exercise of her national arm in furnishing that protection to American citizens which she was bound to provide; or because her exhausted treasury precludes the possibility of meeting this heavy demand. No: she boldly and peremptorily avers that she has scrupulously adhered to her treaty engagements;—that she has done no act which those treaties required her to omit, and has left undone nothing she was bound to do. She has declared, through the resolution of her Congress, sanctioned and ratified by her Executive, that all the charges which have been preferred against her, of want of good faith, and violation of treaty obligations, are false. It need hardly be asked, whether this government, which has preferred the charge, will remain satisfied with such a reply; whether it will rest contented under this retort; whether the personal integrity of our statesmen—which, happily, under our institutions, and with the tone of morals which pervades this land,

is, to so great an extent, identified with their public acts and language—is to be sustained or abandoned. For our part, we rejoice that the issue has thus been tendered by Mexico; and we should be recreant to every sense of honor and of right, if we withheld the expression of our earnest wish that the gauntlet, thus thrown down, may be promptly taken up.

Neither party, in this predicament, can, with honor to itself, decline or evade this appeal. Assailed as we now are, in a distinct, official, and most solemn form, it becomes incumbent upon the American nation to demand and insist upon it, that Mexico shall at once unite in the appropriate means of determining these high matters in controversy. A convention is before her, and has been in her hands for nearly eighteen months, providing these means. It creates a judicial tribunal, clothed with all necessary and suitable powers to examine and decide upon this question. Let Mexico be required to meet us upon this arena, to meet our allegations, and to meet our proofs. If she honestly believes what she has said, there will be no evasion, no prevarication, no delay. If she declines, let our government cause the investigation to be conducted among ourselves, by men of high character for integrity and talent; and let the evidence laid before them, and their judgments upon that testimony, furnish our justification to the nation and to the world for what the government has asserted.

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### No. III.

In our last communication, it was stated that efforts had been more than once made by the Mexican government to mislead the popular mind of that nation by false representations in reference to the United States, and especially on the subject of claims of our citizens. We have the strongest reasons for believing, that it has been the systematic policy of that government to excite the most embittered feelings of resentment and hatred against the United States, her institutions, and her people. The motives for this policy are obvious to all who are familiar with the history of that degraded nation, and who are aware of the character of the men who have, from time to time, swayed her destinies—of the means by which political ascendancy is there attained, and the precarious tenure by which it is held. The object for which office is sought, is almost exclusively personal and sordid; the means by which it is attained, as universally base and unprincipled. The means of continuing in power are the excitement of an anticipation of a for-

eign war, which furnishes a pretext for augmenting their army and increasing the revenue, which are afterwards employed—the first to maintain their ascendancy, the other to swell their private fortunes. Such is a true synopsis of Mexican history.

Reference has already been made to one instance of this duplicity, which was brought to notice and exposed by General Howard, of Maryland, in the report of the Committee of Foreign Affairs of the House of Representatives, in July, 1838. Another will now be adduced.

The situation of the public press in Mexico is materially different from what we are accustomed to. While no newspaper is permitted to express opinions or doctrines unpalatable to the powers that be, the government journal is the authentic expositor of the views of the government, and indicates to the other presses, throughout the nation, the sentiments and language which will be allowed to go forth to the people. Shortly after one of President Jackson's messages to Congress, in which Mexican affairs were adverted to in very distinct and appropriate terms, the "*Diario del Gobierno*," the official paper, published an article, from which we give the following extract :

"We do not understand what the President of the United States means by all this about retributions and injuries. Such expressions involve a double sense, and a future intention. In Mexico and Central America, we know that *we owe nothing to the North Americans*. General Jackson may pretend that the subjects of his nation should be indemnified for the smuggled articles which have been taken from them, and declared to be legally forfeited. If the Americans were not so much given to smuggling, and if they did not so far abuse the consideration with which they are regarded, *there would be no complaints of any sort*; and those which, under any circumstances, are made, are unjust, and only a pretext for not allowing us to be at peace, which has been the constant endeavor of our sympathizing friends and neighbors."

In another paper, of about the same date, after stating that the Americans, "when they meet one of our merchant-vessels at sea, they hoist the flag of the Texian rebels; and, as such, take the vessel, and give it, or sell it, to the colonists, after having robbed her, and perhaps murdered all the persons on board," thus proceeds : "We know these American sea-faring men who trade with us, and we are aware that the whole nation, particularly New Orleans, is the haunt of all the vilians in the world."

It was surely not without reason that the American minister, in transmitting these manifestations of Mexican sincerity to his government, felt himself "compelled to add, that all my correspondence with the Department of State, verbal and written, for the last three years, has

served to convince me of the necessity of our government adopting some decisive measure for convincing the Mexican government, not only that they must give ample satisfaction for the wrongs we have already suffered at their hands, but that our rights shall, in future, be respected. Without some step of this character, we shall go on for years without number, accumulating claims against Mexico, that they never will, and never mean to satisfy, so long as it can be avoided. Our citizens will be plundered whenever the wants of the government, or the cupidity of some of its officers, may tempt them to commit the act. And, although we have promises of indemnity whenever the state of their treasury will permit them to do so, they, nevertheless, design by these promises nothing more than a mere postponement—a delay—to gain time for adding to the amount of our demands by new plundering”—a prophecy most signally verified.

We have been informed from an authentic source, that when provision was to be made for meeting the payment of the indemnities awarded under the convention of 1839, the government of Mexico not only resorted to the most odious and oppressive mode in which money could be raised—an arbitrary assessment and compulsory contribution—but accompanied this measure with the most violent invectives against the nation that had imposed upon them, by its frauds, the necessity for their exacting money from the impoverished people of Mexico; thus causing them to execrate the United States at the payment of every rial; and including in this denunciation the Prussian minister, who, in his capacity of umpire, had participated in the act.

By such means have the people of Mexico been taught, by their rulers, to entertain towards this country the most embittered hatred. They regard us not only as unprincipled dastards (for this would only offend them as an interference with their own exclusive monopoly), but as exerting all our energies to injure, molest, and harass them.

They have now, for the first time, in a plain and distinct manner, counting from the experience of the past upon our inexhaustable and all-enduring forbearance, placed us in an attitude in which silence and non-action will be tantamount to an acknowledgement that we justly merit all they impute to us.

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#### No. IV.

It may perhaps be suggested, that in the remarks already made upon the issue tendered by Mexico to the United States—the one asserting

the scrupulous fidelity with which she has fulfilled her treaty obligations; the other averring an habitual disregard of those engagements—reference has only been made to the general language of the public functionaries of the two governments, which, being utterly at variance with each other, the community and the world are unable to decide to which of them credit should be given. The weight of names and of authority, if the individuals cited spoke of facts coming immediately under their own view, would undoubtedly preponderate in favor of the American side of the question. It may, however, be asked—Did not these gentlemen employ language which each derived from his predecessor, or from sources not implicitly to be credited? Did not Mr. Van Buren merely reiterate accusations originally preferred by General Jackson? Did not the latter derive his knowledge from subordinate functionaries? And were not they misled by the representations of interested and not trustworthy claimants? We wish some specific case of outrage; we desire to know whether the allegations have ever been investigated. Has their investigation been conducted by men in whose integrity and capacity confidence may be reposed? Are the claimants men of respectability and worth? and have they sustained their pretensions by credible testimony? These are all pertinent and proper subjects of inquiry; and they shall be answered to the conviction of every man who may truly desire to come to a correct result on the subject.

The record of the proceedings of the board of commissioners, as reported to Congress, is now before us, and the document is accessible to all who have curiosity to examine the matter. In the first tabular statement appended to it, embracing cases which were decided by the concurrent judgment of the American and Mexican commissioners, will be found the following; Peter Harmony, New York, amount awarded, \$11,130—the ground of claim, “specie seized on the way to Vera Cruz, by officers of the government, for its use.” J. J. Astor & Son, New York, \$37,661 94—“For the brig Cossack, seized on the western coast of Mexico, &c.” Smith Thompson, and others, \$2,093 67—“Brig Splendid, seized and employed by the Mexican government.” Theodore Ducoing, \$2,450—“For forced loan and seizure of property.” John F. Old *et al.*, \$13,267 69—“Brig Delight, detention of the vessel, and seizure of part of the cargo.”

The second table comprehends cases which were finally decided by the umpire, the members of the board differing in opinion. This includes the following cases: Arnold, Hicks, and others, \$77,260 57—seizure of the ship Louisa and cargo. Jackson Marine Insurance Company, \$9,361 95—schooner Brazoria seized and employed in the Mexican service. Thomas Wilson, \$47,194 32—seizure of schooner Fair Ameri-

can. Robinson Potter, \$3,363 50—seizure of, and employment as a transport of brig William. John Baldwin, \$12,803 39—personal injuries, loss of property, imprisonment, &c. M. Mitchell, \$9,636 64—seizure of specie for the use of the government, between Mexico and Vera Cruz. Boric and Laguerenne, \$35,336 50—illegal exaction of duties. Aaron Leggett, \$99,487 94—seizure of steamboat, and other outrages. Dennis Callagan, \$12,042—seizure of vessel and imprisonment. G. G. and S. Howland, \$18,058 61—seizure of wax. Joseph Smith, \$18,762 63—seizure of merchandise. John Baldwin \$100,000—various outrages, designated by the commissioners as “a case of the most extraordinary and aggravated nature,” and for which the American members awarded upwards of \$210,000. Same, \$45,174 75—similar atrocities. C. Bradbury and others, \$119,966 39—detention of the brig Franklin.

The foregoing constitute but a small number of cases of this description, in many of which the Mexican commissioners only differed from their American colleagues in fixing the measure of compensation, and in all of which they were afforded a full opportunity of opposing any allowance.

A third table shows the cases which were returned by the umpire without his award; he being debarred, by the expiration of the commission, from fulfilling his entire duty.

The same tabular statements comprehend a very large number of claims thus passed upon, which were not of this particular class. They were, not for illegal seizures of persons and property, but for simple breach of faith on the part of Mexico, in not paying for advances and supplies furnished her. Enough, however, has been shown to make it perfectly manifest, that among the claimants were some of the most distinguished and irreproachable merchants in the land; that their allegations have been examined by eminent and experienced judges; that Mexico had every opportunity of opposing every case, while the claimants were equally debarred from seeing the evidence and hearing the arguments adduced against them; and that the result fixes upon Mexico the most flagrant violations of public law, of treaty stipulations, and of personal rights.

Still again the inquiry may be made—What was the character of the outrages of which complaint is made? This also shall be answered. One shall be taken, which, from its public character, could not be brought before the board; and one of private outrage, which was thoroughly examined, and upon which the commissioners and the umpire passed their judgment. In selecting these, it must be observed that they are thus brought forward, not because they are distinguished from others by

any peculiarly aggravating circumstances, but because the facts are exhibited in an authentic shape, and no question can be raised as to the truth of the narrative.

It will be unnecessary here to particularize the case of Mr. Slacum, an officer of the navy of the United States, a bearer of despatches from the department of State to the United States legation at Mexico, in 1836, who was arrested by Mexican officers, his public despatches demanded, and he subjected to violent, rude, and offensive treatment; or of the case of another public messenger of the United States bearing despatches from our minister, carrying with him a passport of safe-conduct from the supreme government of Mexico, verifying his character, who was seized by the governor of Perote and robbed of his despatches; or of another officer who was seized and imprisoned on landing from a national vessel. Such cases were outrages upon the nation, for which atonement was never made.

We shall proceed to one in which every species of lawless atrocity seems to have been combined. In December, 1835, a Mexican officer, of the name of Jose Antonio Mexia, landed at Tampico with a body of men, under the Mexican flag. His unfortunate associates had been inveigled into accompanying him, by false representations as to their destination, and the object of the expedition. Among them were several foreigners, the larger number of whom were Americans. They fell into the hands of Santa Anna. The foreigners, including eighteen citizens of the United States, were, without trial, ordered for execution, and inhumanly murdered, while the Mexican part of them were not punished. Two Frenchmen accompanied this expedition, and were among the victims; and for this illegal and inhuman murder, France exacted of Mexico such atonement as she thought proper to demand. None has ever been made to the government of the United States, or to the families of these unhappy victims of Mexican perfidy and Mexican cruelty.

I shall conclude this paper with a quotation from the despatch of the American minister at Mexico, transmitting to his government a statement of this transaction, and his commentary upon it. "It is not for me," he says, "to point out the course which my government should pursue on the present occasion; but surely none better could present itself, to justify us in teaching these semi-barbarians a lesson of justice and good faith; and I will add, that if this barbarous and inhuman act be submitted to—should the Mexican government be permitted to escape, without making the most ample satisfaction, not only the property and lives of our countrymen in Mexico will hereafter be held at the mercy of every petty officer who pleases to exert his power, but we will become the scorn of all nations. Such are the impressions here on this matter."

## No. V.

It seems proper to present one case of private wrong, which will equally illustrate the course of conduct which the Mexican functionaries have been allowed to pursue towards American citizens, and the vexations and embarrassments interposed in the way of obtaining redress for the most aggravated injuries ; while, at the same time, it will furnish the means of arriving at a just decision upon the issue now made between the two governments. Mexico solemnly asserts that she has scrupulously adhered to her treaty stipulations. She asserts this, while independently of the two instalments payable by her under the convention of 1843—about which so much mystery seems to exist, but for which she holds the receipt of the American agent—independently of this, she undoubtedly is in default, in not paying the instalments which fell due in October, January, and April last.

This is by-the-by. Our immediate object is to exhibit one case, on which Mexico has been heard, the evidence produced (that evidence mainly consisting of the judicial proceedings in her own courts), and the decision pronounced. It has been selected, not because the circumstances of it are marked by any peculiar atrocity or injustice, but because the very worthy gentleman, who was the claimant in the case, has been an object of some public attention, and prejudices may have been imbibed, equally without foundation in fact, and unjust to him. The case thus selected, is one of the several cases in which Dr. John Baldwin was the claimant ; and there lies, at this moment, before us, the statement of the facts, and the exhibition of the merits of this case, not resting upon the veracity of the party himself, or his counsel, but embodied in the judicial opinion of Messrs. Marcy and Breckenridge, whose characters sufficiently authenticate and verify their solemn judgment, delivered under all the high responsibilities of their judicial office.

The document before us states, that “the claimant, Dr. Baldwin, a gentleman of talents, education, and extensive connection in the United States, being possessed of considerable capital, went to Mexico about the year 1824. His object in going there was to establish himself, not only as a merchant, but also for the purpose of constructing extensive saw-mills, being possessed of skill in such machinery, which might be greatly advantageous to Mexico as well as to himself. The situation chosen by him was one of the most important in the whole extent of the Republic—the isthmus of Guascualco, south of the port of Vera Cruz—the country bordering on the river Guascualo, being then almost a wil-

derness of heavily-timbered lands. The government of Mexico, about the same time, had projected a settlement or colony there ; and a number of French families were invited to settle in the neighborhood chosen by Dr. Baldwin.

“Under the active enterprise and exertions of Dr. B., who had brought with him capital, workmen, and persons skilled in machinery, the new settlement grew rapidly, and gave birth to the village of Minatillan. Mills of great value were erected by Dr. Baldwin, at which the mahogany and other valuable timber of the country was sawed, giving employment to many persons, natives and foreigners, and bidding fair to lay the foundation of an important branch of wealth and industry to the nation.”

“Dr. Baldwin had purchased a tract of land a league square ; and on this land, of which he was put in possession by the seller, he erected his mills, dwelling-house, and other establishments. He also made extensive preparations for clearing lands, &c., for establishing a coffee plantation upon a large scale. He was thus in the full tide of prosperity : and, if he had been protected by the Mexican authorities and government, would, in a few years, have realized a princely fortune. The facts thus stated are either established by the documents, or are of historical notoriety, which, it is presumed will not be questioned.”

“But these prospects were soon overcast. The series of oppressions and persecutions, of which Dr. B. complains, commenced soon after the arrival of Gaddeo Ortiz in this colony, who, under the title of commissioner, was invested with extensive political power.”

“The first fact, in point of time, is that sworn to in the depositions of S. Macord and C. Macord. Some time in the year 1828, Dr. B. demanded of the commissioner Ortiz payment of a sum of money for lumber furnished for the use of the public, in building a church and government-house. They state that Ortiz took offence at this. It is certain that the injuries complained of by Dr. B. commenced soon after that occurrence.” It is then shown that certain judicial proceedings purport to be signed by an alcalde who could neither read nor write, to be founded on testimony given by witnesses, who, when confronted with the accused, solemnly denied that they had given any such evidence, or even testified at all ; and that this proceeding was finally proved to be spurious before the higher tribunals. “In the meantime, the claimant had suffered in his person, in his purse, and in his reputation. He had been imprisoned nearly a year, his property seized, and his character as a merchant impaired, his feelings as a man outraged, and his numerous friends in the United States chagrined by his name being regularly published in the newspapers in the State of Vera Cruz,

as the stranger John Baldwin, accused of murder, disobedience to the authorities, of stealing timber from the public lands, of opening a private letter addressed to another person, and other offences! But, being a man of intelligence and energy of character, with that sturdy spirit of resistance to oppression which belongs to his countrymen, he followed up these different charges through a period of nine years; until on the more serious accusations he was acquitted by the superior tribunals, while all the others vanished in smoke." The evidence is examined in detail; and it is shown, that upon these fabricated pretences, the property of Dr. R., consisting of his saw logs, amounting to about \$15,000, was seized and confiscated to the State; possession was taken of his establishment and houses, and he was thrust out of his dwelling with a few minutes' notice. Neither he nor his family were permitted to take anything away—not even a small bundle for the use of his wife. The soldiers kept possession for three or four months; and when B. and his family came back, they found nothing but the empty houses and mills. Ortiz, after causing Baldwin to be driven from his house, took possession of the premises, and disposed of everything as his own, until the revolution which placed General Guerrero in the presidential chair; when Martin Arriola, commandant of Acayuacan, restored B. to his home; but his moveable property had all disappeared in the meantime."

In a subsequent part of this document, after a minute review of the testimony, the American commissioner says: "We think that the evidence of bad faith and fraud on the part of the commissioner Ortiz, and his successor, Hoyos, is too glaringly manifested on the face of the proceedings we have detailed, to be for a moment questioned. The violent and malignant character of the denunciatory letter of Ortiz, at once betrays the motive by which he was actuated. He had important political power; he styles himself commissioner of the colony of Guascualco, authorised by the general government of Mexico, and of Oaxaca and Vera Cruz; and his malignant influence may be traced from Guascualco to Tehuantepec, and was probably the source of nearly all the sufferings of Dr. Baldwin in the country. Besides the letter in which he appeals to the higher political authority—but appeals in vain—for the sanction of his arbitrary acts, especially in that of banishing Dr. Baldwin, we have the forged '*Sumaria*'—established to be such, beyond a doubt. There are, first, the repeated signatures of Montalvo (who could not write his name), and next, there is the hand-writing, which, by comparison, is evidently that of Ortiz himself, and his secretary Vallejo. *One of the commissioners, by a singular coincidence, happens to be well acquainted with the hand-writing of Ortiz, having known him in New Or-*

*leans twenty-five or thirty years ago, having taken Spanish lessons from him, and corresponded with him. He does not hesitate to pronounce that the greater part of the 'SUMARIA' is in his hand-writing; and the signature of Montalvo is sometimes his, and sometimes that of Vallejo.'*

We have here the most indubitable proof that this high functionary first perpetrated a high-handed act of lawless tyranny, involving an American citizen in ruin, and then endeavored to cover over his iniquities by the forgery of a judicial record. Further details of this case will be given in our next.

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No. VI.

"WE resume our quotations from the report of Messrs. Marcy and Breckenridge on the claim of Dr. Baldwin.

"We have refrained from entering into a detail of the circumstances attending the unparalleled act of atrocity in the two Mexican functionaries, (Ortiz and Hoyos), in first attempting the life of Dr. Baldwin, by ordering him to be shot by a brutal soldiery on his attempting to escape the ignominy—worse than death, to one possessing the feelings of a gentleman—of being placed in the public stocks, intended for the lowest order of criminals and malefactors. He was, however, compelled to undergo this degradation during the space of two hours, with a broken leg, and was then hurried to a loathesome prison, where he was detained eighty-four days. But for his own skill as a physician, he must inevitably have perished; and this was, no doubt, the confident calculation of the conspirators. They had doubtless calculated with equal confidence on the effect of their various criminal prosecutions. They supposed it would be impossible for him to remain in the country, under such circumstances; and but for the possession of an extraordinary degree of fortitude on the part of Dr. Baldwin, and the desire to rescue his reputation from the stigma attempted to be cast upon it, their designs would have been accomplished. He persevered until all the accusations made against him were annihilated. We consider it our duty on this occasion, not only to do justice to Dr. B. for injuries to his person and property, but also for the assaults made on his reputation. Our Mexican colleagues, we regret to say, have indulged in disparaging reflections on this head, not warranted by any evidence in the proceedings submitted to us.

"As men do not act without adequate motives, or soil their consciences with crime of the deepest dye, without those stronger incentives

which govern the human passions, other considerations will here be presented besides those of hate and revenge, and the desire to wipe out debts by exterminating the creditor. The property acquired and created by the enterprise, skill, and capital of Dr. B., presented a glittering prize to petty pro-consular avarice and cupidity," &c. "With the advantages possessed by Dr. B. in his extensive commercial relations and capital, and his valuable saw-mills and plantations of coffee and tropical fruits, it is impossible to doubt but that, with a moderate protection from the Mexican government, he would have acquired a fortune more desirable than that of the most valuable of the mines of Mexico. It was no doubt, in a great measure, owing to an unwillingness on his part to sacrifice these brilliant hopes, that he endured the oppressions of the authorities, still flattering himself with the belief that a better order of things might be established.

"We shall make the following extract from the letter of Mr. Butler, of September, 1833, based on Mr. Livingston's instructions.

"The undersigned is further instructed to declare, that the government of the United States of America, in pressing for the redress of the injuries suffered by Dr. Baldwin, and in discharge of those solemn duties it owes to every citizen of our country, in affording him the most ample protection, *designs to make this a national question, and will so treat it hereafter.*"

"After the above explicit declaration, placing the case of Dr. B. upon a distinct and separate ground from any other, it might be reasonably doubted whether it is included under the general convention subsequently entered into. It might be contended that, not being provided for by a special clause, the nation was still left at liberty to vindicate its honor and its rights in any other mode. *If there had been no other cause of complaint against Mexico, the United States would have been bound, after such a declaration, to push that demand, even to the extremity of war.*

"The ground thus taken by the government of the United States, the highest political power of the nation, is based on the assumption of the truth of the facts presented to it. The words of Mr. Livingston are as follows: 'If the facts in the case of Baldwin are such as he represents them to be, the honor of our country requires that ample reparation should be made to the sufferer.' Our examination of the proofs of the case has brought us to the conclusion that the statements of the claimant to his government are substantially sustained. The principles on which we are bound by the convention to decide the cases brought before us, oblige us to come to a result in regard to Dr. Baldwin's private rights, entirely compatible with what the government of the United States intimated was due to its national honor—reparation of his aggravated

wrongs." Upon this case, the American commissioners, indulging the hope entertained, that, by placing the most moderate estimate upon the remuneration to which the claimant was entitled, no difficulty or doubt could be entertained, and that it would be immediately acquiesced in, assessed the damages to which he was entitled at \$210,405 09. In consequence, however, of the non-production of his title-deed for the real estate, of which he had been robbed by his plunderers, and which, therefore, it was not in his power to produce—for which a demand was made upon the Mexican government, under one of the articles of the treaty, to which she responded by alleging, on the authority of the local functionaries, that it was destroyed by fire while in their possession—this sum was reduced by the umpire to the sum of \$100,000. Such is a very imperfect sketch of the circumstances upon which one of the claims of American citizens against Mexico rested. The evidence to sustain the allegations of the claimant were, in a great extent, the record of the proceedings of their own courts. Nine years of persecution were endured; a princely estate despoiled; the most glorious promises nipped in their bud;—all through the instrumentality of Mexican functionaries, executive and judicial. It has been examined and decided by our ablest diplomatists and jurists; yet Mexico asserts before the world, and her Executive and her Legislature aver before their own people, that she has been faithful to her engagements, loyal to her honor; and that the United States has no other pretence of claim than such as is afforded by an iniquitous attempt to cover the smuggling operations of her citizens with the veil of right!

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## VII.

THOSE who have perused the preceding articles which have appeared under this head, must, it is presumed, be prepared to pass their judgment upon the bold assertion which Mexico has so solemnly proclaimed to the world, that she has scrupulously respected her treaty obligations. The course of that nation has been rapidly sketched from authentic documents. It has been shown that it has been uniform and consistent, equally setting at defiance the laws of nations and of humanity, and equally regardless of public and private rights. The details of a great body of the cases in which the citizens of the United States have suffered wrongs from the public authorities of Mexico, are still to be found in the Department of State, and have never been promulgated to the public. Numerous instances have occurred in which the unfor-

tunate victims of Mexican inhumanity have perished under her cruel grasp, and the history of the wrong has been buried in the grave of the unhappy sufferer. The public documents, and other authentic sources of information, mention many such cases. In many others, the parties, hopeless of rousing the sympathies of their countrymen or the energy of their government, have abandoned the prosecution of claims which necessarily involve a large expenditure of time and money, which they were unable to command; while in others, ruin, bankruptcy, or death has devolved upon assignees or destitute widows and orphans the right to redress, which they knew neither how nor where to seek.

In the present paper, I shall present a case which will furnish to the American public, who have always associated high official station with personal honor and veracity, an opportunity of judging whether such a connection subsists in Mexico. In House Doc. No. 269, 27th Congress, 2d session, will be found the counter-statements of the American and Mexican commissioners upon the claim of Mr. Aaron Leggett. An extract from the opinion of the former will illustrate this subject. It will be found at page 11 of the Document :

"The next question to be resolved is, did the public authorities of the State of Tabasco, or any other of the Mexican States, invade Leggett's right, or permit it to be invaded, under circumstances which involved the Mexican government in a responsibility therefor ?

"In discussing this question at the board, our colleagues seemed to place the utmost reliance on the statements contained in the record of the proceedings before the judge of the court of primary jurisdiction at Tabasco, in November, 1834. On the contrary, we, the undersigned, regarded the statements therein as worthy of very little consideration. It is certainly of great importance, in the outset of this discussion, that the true character of this portion of the evidence should be ascertained. We shall, in the first place, show the circumstances under which this evidence was taken; and infer therefrom, that, were it not contradicted, it would be entitled to very little credence; and, in the next, we shall show its *absolute falsity* in several important particulars.

"Leggett had, some time before this investigation was ordered, not only complained to the Mexican government of the violation of his rights, but he had presented an account of his losses and damages in consequence thereof, and made an earnest and urgent claim for indemnification." "Not only was this large claim urged by Mr. Leggett on the Mexican government, but the American government had been called upon to interpose in behalf of its injured citizen, and had actually done so. The Mexican government perceived (as well it might) that this was a serious matter, and began to take steps to defend itself from so large a

demand upon its treasury. It sent Leggett's memorial, documents, &c., to the judge of the court of primary jurisdiction of Tabasco, with a view to have the matters therein contained inquired into. We will not say that the object of the Mexican government, in ordering this investigation, was not fair; but it is obvious to the slightest reflection, that the results of such an investigation, unless the claimant was permitted to be present to cross-examine the witnesses which might be called on the part of the Mexican government, and produce witnesses on his part in support of his claim, would be of very little avail in subserving the ends of truth and justice. But, in regard to the conduct of those who had the charge of this proceeding, we must say that it seems to have been their object to get up a contradiction to the facts in Leggett's memorial; and when those facts were so obvious as to defy contradiction, to pervert them, and to explain the transactions with Leggett in such a manner as to furnish an excuse for withholding indemnity from him.

"When the claims of American citizens—among which was Mr. Leggett's—were pressed upon the Mexican government for adjustment, previous to this time, by the American minister (Mr. Butler), the Vice President of the Republic—General Santa Anna, then exercising its chief Executive functions—replied to him, through Mr. Carlos Garcia, Secretary of State, that 'his excellency had directed the undersigned to inform Mr. Butler that the government, in consequence of what was determined and communicated to him on the 21st ultimo, cannot admit of any other arrangement than that the persons interested should appear at the Treasury Department for the prosecution of such business, where justice will be administered to them, conformably to the laws of the country,' &c.

"In consequence of this absolute refusal of the Mexican government to consider the claims of American citizens, without their personal appearance 'at the Treasury Department,' (a strange position, indeed!) the negotiation in regard to these claims was arrested. Notice of this fact was communicated to Mr. Leggett, at New York. As all his property had been lost, and all his future prospects centred upon the indemnity which he expected from the Mexican government, he repaired, in the spring of 1834, to Mexico, to appear in person 'at the Treasury Department,' as the order of the Executive department required, to bring his business to a conclusion. He arrived at the city of Mexico early in the summer of 1834, and there remained more than two years, devoted exclusively to this business, encouraged with hopes of justice, which were ultimately destined to be cruelly disappointed. While he was thus there, urging the adjustment of his claim, this investigation was ordered; but the organization of the court, and its whole proceedings,

were kept a profound secret from him (though it was well known he was in Mexico all the time, and had no other business), until the 27th August, 1835, long after its session had closed. On the 1st September, Leggett addressed Mr. Bonilla, Secretary of Foreign Affairs, for a copy of the proceedings of the Tabasco court. The proceedings were not made known to him; but the Secretary of State, by Mr. Tornel, the Secretary of War, furnished him with the statement contained in the document, pp. 76, 77.'

"So far as this document reiterates the statement in the record, it is of the same validity as the record itself, which we shall show, is entitled to no credence whatever. But we cannot withhold our astonishment that Mr. Tornel, Secretary of War, should state that it appeared before that court, and in its proceedings, that Leggett owed the custom-house fourteen thousand dollars for duties, for which he was sued and judgment had passed against him therefor, and his property was seized, &c. *We have the record of that investigation, and it shows no such thing; and, what is equally remarkable, no such fact ever existed, within or out of the record.* When we see, as we do in this instance, extreme carelessness, in relation to facts, in this high functionary of the government, we are not to be surprised that officers of a much lower order should be very reckless in their statements."

In reference to the merits of this particular claim, it will not be necessary to go into any minuteness or detail. The facts, and the evidence to sustain them, are given with much force and ability in the report of the American commissioners above referred to, and which, it is understood, was drawn up by Governor Marcy. He cites, however, in that paper, a statement of what occurred in an interview between the American minister and the Mexican President on this special subject: "In the course of the interview, General Santa Anna admitted that you had suffered great wrong; but said, the injuries done you, although to be regretted, were incident to the peculiar condition of the country, at that period undergoing a political revolution—during which, individual rights, whether of person or property, were equally disregarded, and expressed regret and mortification that the state of the public treasury would not permit immediate satisfaction to be made to you."

The American commissioners awarded to Mr. Leggett, \$407,079 41, for his losses; but the amount was reduced by the umpire. No part of it was admitted by the Mexicans.

## No. VIII.

IT is presumed that the case has now been completely established, that Mexico has violated the treaty engagements with the United States, and that a large amount of injury has thus been inflicted upon American citizens, for which she is bound to make compensation. The obligation of the government of the United States to demand and insist upon this act of justice, has been so frequently and so distinctly avowed and recognized by it, that it will be unnecessary to go into an argument to sustain the existence of the duty.

A very serious and interesting inquiry remains. How shall this obligation be enforced, and this duty fulfilled? It may be answered, that it will be done by some arrangement made between the two powers; for even should Mexico be so lost to all sense of justice and of policy as to declare war against us, still such a war must be brought to a close, and terms of peace agreed upon. Independently, also, of the questions growing out of wrongs perpetrated upon our citizens, there are great questions of boundary to be arranged, which must be adjusted by treaty.

Assuming, therefore, that the government of the United States will, sooner or later, redeem its pledge of obtaining that remuneration for these wrongs, which has been so repeatedly and solemnly promised, we shall proceed to inquire, in reference to the claims themselves, what course of proceeding is open to the Executive, and what is that which will commend itself to its judgment?

In conducting this examination, valuable lights may be thrown on the subject, drawn from our own past history, and from the principles heretofore recognized and established by the government, as well in relation to such of our citizens as alleged themselves to be injured, as to the foreign nations who were the perpetrators of these wrongs.

The first instance which occurred in our history was with Great Britain, with which nation many embarrassing questions had grown up since the treaty of peace in 1783. Many of these questions were of an exclusively political and national character, which need be noticed only so far as to remark, that they were conducted to an harmonious conclusion by the treaty of 1794. But a very important subject to be arranged was, that of claims of citizens of the United States, who alleged that, during the then pending war, "they have sustained considerable losses and damage by reason of the illegal capture or condemnation of their vessels and other property, under color of authority or commissions from his Majesty; and that, from various circumstances belonging to such cases, adequate compensation for the losses and damages so sustained

cannot now be actually had and obtained by the ordinary course of judicial proceedings." These cases were provided for under the 7th Article of the treaty of 1794—(1 Laws United States, p. 241). It will be remarked, that there is but a single class of cases comprehended within this provision, viz: for illegal capture and condemnation under the authority of the British government; that it embraced, and, in fact, was mainly confined to, cases in which the capture had been sanctioned by a decree of condemnation in the British courts of admiralty; and thirdly, that the treaty, by pronouncing such capture and condemnations as illegal, had already disposed of this preliminary question, otherwise full of embarrassment, and conceded that the orders from the British government were wrongful, and that the most solemn adjudications of their admiralty courts were confessedly illegal, and imposed upon the government of Great Britain the obligation of making full compensation.

In discharge of its own acknowledged duty towards its citizens, the government of the United States instructed Mr. Jay, eminent for his high legal attainments, to examine minutely into these cases; the Secretary of State, also a distinguished lawyer, proffered to furnish his views, together with all the information in the possession of the department. Not satisfied with this, on the recommendation of Mr. Jay that the United States should employ a special agent for the purpose of giving his individual attention to this business, the Secretary of State, in his despatch to Mr. Jay, of October 29, 1794, says: "On Tuesday next, the Adriana will carry to London Mr. Samuel Bayard. In consequence of your recommendation that an agent should be sent, that gentleman goes over, with the approbation of the merchants of this city interested in British captures, for the objects designated in your letter of the 23d August. When I convened them for the purpose of consultation, they seemed to have great reluctance to meddle at all in a business which they considered as taken wholly into the hands of the government. But, after many explanations and remarks which passed between us, they resolved to appoint a committee, who should act in concert with me. That committee accordingly wrote me the enclosed letter.\* I accepted their proposition as there expressed, because I knew it to be consentaneous to the views of the President, who has this day signified his approbation."

Another agent (a Mr. Higginson) was also sent to the West Indies, to procure the records from the several courts of vice-admiralty.

One impediment which immediately arose on the business, was occasioned by the necessity which existed of carrying all the decrees of condemnation, passed by the colonial vice-admiralty courts, to England for

\* This letter does not appear,

final adjudication. This step involved the necessity of giving security on the appeal in each case, and of furnishing the means for paying the legal costs and professional fees in every case. This was almost an impossibility on the part of the claimants. The government assumed the heavy duty; it authorized the employment as counsel of the two most distinguished advocates at the English bar (Sir John Nichols and Sir William Scott), competent and able proctors to conduct the cases through the court of admiralty; instructed Mr. Jay and Mr. Bayard to engage some responsible commercial house in London to become security in the appeal bonds, with a full assurance of indemnity, and an immediate advance of £30 in each case of appeal, to the proctor.—See Doc. 106, 1 Gales and Seaton's State Papers, Foreign Relations, 470, 499, 513, 514, 515.

In this case there was a mixed commission, and we have seen the steps pursued by the government of the United States in discharging its obligations to give protection to its citizens.

The only other case of a tribunal of this character having been created to adjust the claims of American citizens upon a foreign government, within our recollection, was also under an arrangement with Great Britain. By the first Article of the treaty of Ghent, it was provided that "all territory, places, and possessions whatever, taken by either party from the other during the war, &c., shall be restored without delay, &c., without any destruction or carrying away of any public property, or any slaves or other private property." A controversy arose between the two governments upon the construction of this Article, and it remained unsettled from 1815 till 1820, when, by mutual arrangement, it was submitted to the Emperor of Russia to determine upon the true interpretation of the treaty. The construction contended for by the United States having been sanctioned by the decision of that monarch, thus settling the entire legal question, the ascertainment of the amount of injury, which had been sustained by American citizens by the deportation of their property, was submitted to a board of commissioners, composed of representatives of both nations. In this case, also, it will be remarked, that the question of law, upon the decision of which the validity of the claims rested, were all settled preliminarily between the two governments. All that was left for the board was, the ministerial duty of ascertaining the items and value of the property carried away by the British forces, in violation of the treaty of peace.

Until the unfortunate arrangement with Mexico, by which the claimants were turned over to the tender mercies of a board constituted of an equal number of citizens of both countries, these were, as it is believed, the only instances in which the government of the United States had ever

assented to the organization of a tribunal of this description, to whose decision the rights and interests of its citizens were committed. We have seen in these instances how cautiously their rights and interests were guarded ; and no fair and honorable claimant would or could object, under the circumstances, to the investigation and adjudication of his case by such a tribunal as was constituted. How far the Mexican claimants have cause to complain, will be made to appear.

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No. IX.

THERE has occurred in the history of our country, a second class of cases, in which the United States have obtained from foreign governments compensation for wrongs inflicted upon our citizens. The most important of these are those of France, Spain, Naples, and Denmark. In reference to each and all of these, the relations of amity had been re-established between the respective powers before these matters were adjusted. Spain, Naples, and Denmark were called upon to atone for injuries which had been perpetrated, when the nation itself within whose borders they had been committed, was subjected to a foreign sway. Morally, the nation, under these circumstances, was innocent of the wrong. A superior and controlling authority had done the acts complained of ; and the subjected power, when the ancient regime was re-established, was called upon to redress injuries which they had no hand in perpetrating, and which they would most gladly have prevented. By a well-settled principle of public law, however, the responsibility had attached ; but every consideration required that it should be enforced as leniently as possible.

After an examination by our own functionaries of the grounds of complaint, a definite sum was fixed upon, which it was agreed to accept as a full atonement for these injuries, thus vicariously to be satisfied by an innocent party. Commissioners appointed by the United States investigated the claims, and distributed the money among those whom they adjudged to be entitled to receive it. In regard to Spain, the sum thus apportioned was the amount which the United States agreed to pay for the transfer of Florida. The same principle was adopted in the adjustment of our claims upon France. The government carefully collected the evidence showing the nature and amount of the losses which had been sustained by its citizens ; adjusted with France the legal points, so as to show what particular classes of cases were provided for, and what were excluded ; received a gross sum in liquidation of the whole ; and

submitted the distribution to a board of its own citizens. This last class of cases was, in every respect, a compromise between the governments.

It is well understood that the administration which made the arrangement with Mexico, under which a mixed commission was created, adopted that measure with the greatest reluctance. It was in a manner forced upon them by a powerful party in Congress, who were unwilling to place in the hands of General Jackson the additional strength, which it was supposed would accrue by any warlike movement. It encountered the serious opposition of several of the claimants, and has proved, as they predicted, in a great measure abortive.

The lessons which have been taught by our experience under that arrangement, will induce the government seriously to pause before a similar measure shall be adopted. A recurrence to some prominent incidents which occurred in the history of that commission will illustrate, as well the insincerity and bad faith of Mexico, as the cruel injustice which was thus inflicted upon the American claimants.

It will be recollected, that in consequence of the energetic language employed by Presidents Jackson and Van Buren, in reference to the manner in which Mexico had treated our demands, and the corresponding responses of both Houses of Congress in 1837 and 1838, Mexico had reason to suppose that the cup of forbearance was well nigh exhausted, and that the United States would no longer submit to the daily repetition of her outrages, and the evasions with which every call upon her for justice was uniformly met. Under this apprehension, she despatched a minister to the United States, for the ostensible purpose of arranging the causes of controversy. Mr. Martinez arrived in the United States in October, 1837, having left Mexico a very short time after the promulgation of the decree of the Mexican government of May, 1837, so severely and justly commented on by the Committee of Foreign Relations, in July, 1838. It clearly appears, from these facts, that while, on the one hand, the Executive and Congress of Mexico were proclaiming at home that the United States were the offending party, whose continued aggressions must be met by a prohibition of commercial intercourse, and even more hostile measures, the same government was apparently yielding to the importunate demands of the United States, and sending a minister for the single purpose of making arrangements for the wrongs she had herself perpetrated. A more palpable evidence of insincerity and duplicity can with difficulty be conceived. It was, however, only characteristic of all that followed.

Although Mr. Martinez reached Washington in October, 1837, and the ostensible object of his mission was to form a treaty for the adjust-

ment of our complaints against his government ; yet it was not until the 9th July, 1838, that he received powers authorizing him to conclude and sign the treaty by which that object was to be accomplished. (Doc. 252, H. of Reps., 25th Congress, 3d sess.)

These circumstances were ominous of what was to follow. On the 10th September, 1838, a convention was signed between Mr. Forsyth, the American Secretary of State, and the Mexican minister, (*ibid.*, p. 27). The twelfth Article of this convention provided, that the ratifications should be exchanged within the period of five months from this signature. It was duly ratified by the United States ; but the time stipulated was permitted by Mexico to expire without a correspondent act on her part. This omission was never satisfactorily explained ; for the pretence set up, that the King of Prussia had declined to act as umpire, was not only a most preposterous pretext, but no doubt now exists that it was equally false. No credence was ever given to it by the American government. Thus is furnished additional evidence of the habitual bad faith of this nation, who arrogates to herself, in her conduct towards us, an exclusive claim to fidelity to her engagements.

On the 11th April, 1839, the United States once more assented to a pacific arrangement of this subject, by signing a new convention. The 14th Article provided, that the ratification should be exchanged within twelve months from the date of the signature, or sooner if possible. Yet the procrastinating and dilatory course of Mexico once more was manifested. It would have been dangerous again to permit this treaty to expire from her omission to perfect it ; but her action was so long delayed, that the ratifications were exchanged only as late as the 8th April, 1840. Three days more delay would have rendered the whole a nullity.

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#### No. X.

WE have arrived at the period when the convention of 1839 became solemnized and perfected, by the exchange of ratifications on the 8th of April, 1840.

It now becomes our duty to exhibit the course which Mexico pursued, to prevent this treaty from fulfilling the hopes which had been entertained by the parties whose claims were provided for in it. Every artifice which the most refined ingenuity could invent, was resorted to ; every embarrassment was thrown in the way of the claimants ; every delay in the progress of the business of the board was interposed ;

every quibble was employed to prevent the course of justice ; and, unfortunately, these machinations proved but too successful.

The third Article provided, that the board of commissioners created under it, should meet in the city of Washington, within three months after the exchange of the ratifications. This was the first act to be done. The time was duly notified, and the day fixed pursuant to the treaty was the 7th of July. This provision of the convention was broken by Mexico. The commissioners were not appointed by her until the 20th of June, and did not reach Washington until the 13th August. The government of the United States had then a perfect right to declare the whole arrangement at an end.

The commissioners, however, assembled on the 17th August ; and, by the terms of the treaty, their functions were to expire in eighteen months from the time of the meeting of the board. It became a matter of some moment to Mexico, so to manage matters, that as large a portion of the time should be wasted as possible, and as little left for the actual transaction of business. The report of the American Commissioners, transmitted by the President to Congress, June 13, 1842, (Sen. Doc. 320, 27th Cong., 2d sess.,) will show how faithfully and exclusively these objects were pursued, and how successfully they were accomplished. It was not until the 28th of December, 1840—more than four months after the first meeting of the board—that the first cause was brought before it for a hearing upon its merits. (Sen. Doc. 64, 27th Cong., 1st sess.). Nearly one fourth of the entire period allotted for its existence had been consumed, before one step had been made in the actual business for which it had been created ; and on the 26th of May, 1841—five months later, and when more than half the time during which it was to continue had expired—but twelve cases had been definitely adjusted.

In the conduct of the business, the Mexicans exhibited a disposition to thwart its progress in every conceivable mode. No rules or regulations were adopted for the transaction of business ; no form prescribed for the claimants to pursue in the presentation of their cases ; in fact, they were utterly precluded from “ all access to it, in person or by their agents ; and even the right to present or transmit directly to it any paper, document, or written proofs,” (*ibid*). These measures were resisted and combatted by the American members of the board, with equal earnestness and ability. They “ considered them as erroneous, and they believed that the adoption of them would be very prejudicial, if not entirely destructive, to the interests of the complainants.” The very constitution of the board, composed of two representatives of each country, precluded the possibility of arriving at any satisfactory result ;

and the Mexicans would have been completely successful in the accomplishment of all their designs, and would have prevented a decision in any one case, but that the American members of the board, "seeing no prospect of coming to an agreement on this important point, and it not being one which, according to the provisions in the convention, could be submitted to the umpire," acquiesced in a wrong which they had no power to prevent or redress, "under an apprehension that the objects of the two governments in instituting the commission" would be defeated. This was done so as to leave it to the claimants, "at their option, to avail themselves of the circuitous mode of getting their cases before the board." The American Commissioners inform their government, that "as all the efforts of the undersigned to procure for them (the claimants) the exercise of their just rights had been unavailing, and to insist upon its being assented to by their colleagues would have rendered the convention entirely abortive, the undersigned consented to proceed in the business for which the board was organized, without obtaining from their colleagues, a recognition of the obvious right of the claimants of a direct access to the board."—(*Ibid.*)

What were the prospects of a fair and impartial hearing before a tribunal to which the complaining party was prohibited access, either in person or by his agents—where no written communication from him would be received—where he could present no evidence to substantiate his claim, no argument to establish his rights—where testimony against him was received which he was not allowed to know of, and reasons assigned for rejecting his demands which he was forbidden to hear—may well be conceived by all who have experience in judicial matters.

The subject was brought under the notice of the government as early as October, 1840, by some of the parties, in a memorial, of which we shall present an extract :

"In the first place, we would suggest whether the entire design and object of the government of the United States has not been evaded, or counteracted, by that of Mexico. No doubt exists in our minds, that our own government, in the convention with Mexico, designed to create a judicial tribunal, which should, under all the high sanctions of the judicial character, examine into and adjudicate upon the merits of the several claims which might be submitted to its decision. The uniform practice in similar cases, the language of the convention itself, the phraseology of the act of Congress which was passed to carry it into effect, and the clear and distinct communication of this design throughout the negotiations which terminated in this arrangement, one and all, are too plain to admit of a doubt upon this subject.

"Such, however, we apprehend, was not the design of the Mexican

government; and such, unquestionably, is not the view taken of the matter by the Mexican commissioners. The journals of the board show that, upon this point, a wide and essential (and, we believe, an irreconcileable) difference subsists between the members. The Mexican commissioners, if we are correctly informed, refuse to consider the board as possessing the character of a judicial tribunal, or as invested with its functions; they refuse to recognize it as created for the purpose of investigating the cases in conformity with the principles which must necessarily regulate such bodies; they refuse to permit the parties to appear before them, in person or by attorney, to exhibit their own cases, apply their own testimony, and hear the allegations and evidence which may be adduced against them; they refuse to make and enounce such rules and regulations as every properly-constituted judicial tribunal must necessarily have, to govern its own proceedings, and to guide the action of the parties litigant. A preliminary difficulty is thus presented, which, in the opinion of the claimants, threatens to render the whole convention nugatory, and, indeed, worse than useless."

Another peculiarity characterized the proceedings of Mexico, in the execution of this convention, which indicates an entire departure, as well from good faith as from the most obvious principles of justice. By the first Article of the treaty of 1839, it was expressly required, that "the said commissioners should be sworn impartially to examine and decide upon the said claims, according to such evidence as shall be laid before them" by the parties respectively. Before the signature of the treaty, in answer to a suggestion of Mr. Martinez, Mr. Forsyth remarked, that, "as the commission will be a sort of joint judicial tribunal, it does not appear to be proper that there should be instructions to it from the Executive of either country." This declaration was tacitly concurred in, and most faithfully adhered to by the United States. Mexico, however, insidiously disregarded this at least implied pledge. The very commissions issued by her government required each of her representatives to execute his functions, "in entire conformity with the instructions that are issued to him for the better execution of so important a commission." That such instructions were, in fact, given and followed, the conduct of these individuals furnished the most pregnant evidence. But it is now placed beyond the reach of doubt, by the testimony of a competent and well-informed witness, who says, that "while in Mexico, I was led to believe, from intimations which I received from a reliable source, that the commissioners appointed on the part of Mexico, under the late convention, had instructions to render the convention abortive, by the delay and procrastination of the business of the board, beyond the time limited in the convention for the adjustment of said claims. I

believe that such instructions were given—not in writing, but verbally—by those intrusted at the time with the Mexican government.” “I am not at liberty to disclose the source from which I obtained this information, but I believe it to be entitled to every confidence.” With great moderation of language did the Committee of Foreign Relations, in their report of the 27th of August, 1842, express themselves on this point. They say, that they “cannot but perceive that the instructions under which those commissioners acted, and the course they pursued, in the organization, proceedings, and final action of the commission, were of most questionable validity, and operated to the serious injury of the parties interested, so as to impair, if not to defeat, many of the beneficial purposes contemplated by the convention.” The Committee further expresses its opinion, that this, with others connected with the same subject, “are questions, in their present stage, for the consideration of the Executive, and for negotiation between the two governments.”

This subject was adverted to in the communication already cited from some of the claimants to the Department of State, of October 10, 1840. It is there said: “The claimants have no means of knowing whether the instructions accompanying the powers under which the Mexican commissioners act, and which, according to our understanding, constitute an essential part of those powers, have been in any way communicated to our government. It does, however, appear to them, in the absence of any information on this point, that it is contrary to every idea they have ever attached to a judicial tribunal, that the judges should be commissioned to decide in conformity with instructions given by one of the parties litigant, and that such instructions should furnish the measure of their powers. Nor is this apparent incongruity diminished by the fact, that a moiety of the court is required to act under powers, and its judicial discretion is to be guided by rules, which their associates neither know nor recognize. Unless, therefore, these anomalies, thus exhibited on the face of the documents, and illustrated by the proceedings of the board, shall have been obviated by other circumstances unknown to the claimants, we would respectfully suggest to the consideration of the Executive, whether there does not exist an inherent and vital defect in the organization of this tribunal, rendering it wholly incompetent to the performance of the duties imposed on it by the terms and provisions of the convention; whether this defect has been the result of mere inadvertence; or whether it does not indicate, on the part of the Mexican government, a want of that frankness and candor which we had a right to anticipate at its hands?”

Here is presented another specimen of the solicitude of Mexico faithfully to adhere to her engagements!

## No. XI.

MUCH of what has been said on the two first classes of the claims of citizens of the United States against Mexico, is equally applicable to the third. These are those in which the examination was not fully completed, or was altogether prevented, and were therefore left unadjudicated, in consequence either of Mexico failing to produce the evidence which, under the treaty, she was bound to furnish, or because the Mexican Commissioners persevered in carrying out the instructions of their government, to resort to any expedients which might render the convention abortive.

It has been shown, that five months, out of the eighteen prescribed for the duration of the board, were consumed in vain efforts to establish some rules for the methodical transaction of the business for which it had been created, and for the guidance of the complainants in the preparation and exhibition of their cases.

In their communication of March 2, 1842, to the Secretary of State, the American Commissioners say: "It is very certain that all the objects contemplated by the convention have not been fully accomplished. A number of important claims, coming within the cognizance of the commission, have not been adjusted. Upon whom rests the responsibility of this partial failure, is a question not to be settled by the assertion or belief of ourselves, or of our late colleagues, but by an appeal to the facts recorded in the minutes of the board."—Doc. 320, pp. 195, 196. "To this long delay, in the first place, in determining upon any mode whatever, by which the business of the board could be conducted, and then in the indirect and circuitous manner to which the claimants were eventually obliged to resort, for the purpose of getting their papers and documents before the commissioners, is, in our opinion, to be attributed, in some measure, the failure of the commission to examine all the cases before it, and to present them to the umpire in season for his decision thereon. Whatever detriment has resulted from this cause, must be attributed to such of the commissioners as erred in their construction of the convention."

In reference to some particular cases, these gentlemen employ language much more emphatic and accusatory. They specify the case of the *Topaz*, in which, after adverting to the murder of the captain of that vessel, and the proceedings at Anahuac growing out of that outrage, and expressing their full persuasion "that the whole proceedings at Anahuac were designed to cover up a most barbarous and cruel transaction," they add: "The object of the undersigned in commenting upon this case, is

not to present its merits, but only to show the true cause why it was not finally disposed of." "If the Mexican Commissioners had not caused action to be suspended on it for more than two months, and down to within one month of the expiration of the commission, it would doubtless have been finally disposed of." "A like delay, for the same cause, took place in respect to the several claims growing out of the seizure of the Julius Caesar, Champion, and Louisiana, the condemnation of the two former, and the imprisonment of the persons on board them." "But for the suspension of action upon these cases, at the instance, and by the votes, of the Mexican Commissioners, on the allegation that they had been withdrawn from the cognizance of the board,\* they doubtless would have been sent to the umpire in season to have received his final judgment thereon."—*Ibid*, page 253.

Another instance, of a similar character, is presented in the case of Mr. William S. Parrott, which the American Commissioners made the subject of a special report, in which they fully demonstrate that Mexico violated the terms of the convention, by withholding papers, "by which an express stipulation in the convention, that government had come under an obligation" to furnish, and by transmitting such "as appeared on the face of them imperfect, and, in some material points, contradictory." They conclude their observations on this case in the following terms: "Finally, it appears quite evident to the undersigned, that the documents which were demanded and not furnished, were such as the government of Mexico was bound, under the fourth Article of the convention, to furnish; that the requisition was sent out at the earliest period at which it could have been sent; and that the want of those documents, for not furnishing which no adequate excuse has been given, is the cause why a final disposition was not made of this claim of Mr. Parrott."

Such was the open and undisguised infraction of treaties and perversion of justice in this last cited case, that Mr. Upshur, in his despatch of the 25th of July, 1843, (Doc. 158) thus adverts to it: "The conduct of Mexico, as it seems to me, had made it the duty of the United States to insist on prompt and specific relief, so far as this case is concerned. She has rendered herself liable to the charge of having broken her faith, and disregarded her obligations. She has not complied with a single stipulation of the fourth Article of the convention of 1839. She has not even *professed* to have produced a large number of the documents called for, and many of those which she did produce were either imperfect or grossly falsified. The American Commissioners complained of this, but without redress; and to add to the injuries and contemptuous conduct

\* All of which was a sheer fabrication.

of the Mexican Commissioners, they took back with them, against the assent and remonstrances of the American Commissioners, and of the Secretary of State, all the falsified and imperfect documents which they had submitted. All this will fully appear from the enclosed extracts from the proceedings of the board. It is quite evident that, so far as this claimant is concerned, he can have little hope of success before a new commission. He must necessarily rely on the same evidence which he has heretofore applied for in vain, and he must make his demand on the same government which has heretofore treated the same demand with neglect and contempt."

In reference, then, to this third class of cases, it would seem that Mexico can have no further claim, on the score of justice, to ask to be again heard. She has contemptuously declined to submit her cause to a tribunal of her own appointment. She has deliberately labored, by the most dishonorable machinations, to defeat the very treaty to which she had set her seal, and to the faithful performance of which she was bound by all the obligations of official and national honor. She has endeavored to impose on this tribunal, false and forged testimony, and then purloined the very documents by which the truth of this accusation was to be established. It would, indeed, be a gross violation of justice to compel the claimants to encounter a second time the expense and labor of producing all their testimony, and of again trying their cases *de novo*. It would be equivalent to a deliberate surrender of their rights.

It seems clearly to result, from these facts, that the failure on the part of the late board to adjust definitely all the cases which were brought before it, is imputable to the bad faith and disingenuous artifices of Mexico ; and that, in the particular instances which have been designated, specific circumstances of fraud and falsehood have been fixed and established against her ;—that, to subject the claimants to renewed litigation before another similarly constituted tribunal, would be equally unjust to them, and disgraceful to the nation. The honor of the American government has been solemnly pledged, and it is with confidence hoped it will not be sullied.

The last and only remaining class of cases comprehends such as were not submitted to the last board. The convention of 1839 limited the jurisdiction of the tribunal which it provided, to cases, statements of which had been presented to the Department of State, or the diplomatic agent of the United States in Mexico, prior to its signature. It consequently excluded all claims posterior to the 11th of April, 1839, and some of an earlier date. During the last six years, numerous cases have occurred equally demanding reparation. It is hoped they will not be allowed to grow hoary with antiquity before they shall be disposed of.

It has been shown that there is no precedent in our history which warrants the government, under the like or analogous circumstances, in submitting the claims of its citizens to a mixed tribunal. It may well be questioned whether the spirit of our institutions does not prohibit it, unless with the consent of the claimants themselves. However this may be, the history of the past shows the inutility and mockery of any such plan of adjustment with such a people and such a government as Mexico. The same disregard of justice which marked her constant violations of private right, equally characterize her in her judicial administration. She is as reluctant to make retribution for the wrongful acts she has perpetrated, as she was unscrupulous in the commission of those outrages.

The matter is now in the hands of the government; and the unfortunate victims of Mexican cruelty and Mexican duplicity will not permit themselves to doubt that, as their rights are now identified with the national faith and national honor, those rights will be enforced, and that honor be preserved unsullied.

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#### No. XII.

It is presumed that no necessity exists to adduce further proof to establish the charge against Mexico, of being equally faithless in the fulfilment of her treaty engagements, or of the obligations imposed by the law of nations, and by the code of personal honor. Her highest functionaries have been shown to be guilty of an open disregard of truth, and of having resorted to the most contemptible and disgraceful crimes known on the Old Bailey calendar. Should additional testimony be required to fill up the measure of official and national turpitude, ample materials exist in the archives of the board of commissioners. It there distinctly and repeatedly appears, that Mexico transmitted spurious and forged documents to the board, as legal evidence in cases before it; that her commissioners withdrew, from the public records of the board, and under false pretences, testimony which had been laid before it for its action; that this was done against the remonstrances of their colleagues, and in contempt of the decided objections of the American Secretary of State. These points, however, have been so frequently brought to the notice of Congress and the nation, that they must be familiar to all who have given any attention to the history of the relations between the two countries.

The far more important inquiry is, what is the course which it be-

comes the right and duty of the government of the United States to pursue in reference to the claims of our citizens upon that nation? The question of duty has been long since settled. Without adverting to other instances in which it has been fully recognised by the government itself, in the most solemn and authentic form, a reference to the very explicit language employed by Mr. Upshur in his despatch of July 25, 1843, may suffice: "The honor of the government is pledged to our own people for the diligent and proper prosecution of those claims. Mexico can no longer, consistently with her own honor, or the rights of our citizens, or what is due to this government, seek to delay the execution of what justice so plainly requires at her hands." "Atonement should have been made long ago for the numerous and flagrant wrongs done by that power to citizens of this country. Unnecessary delays must not be submitted to, nor will slight excuses be received."

Two years have elapsed since this declaration was made. "Unnecessary delays" have been "submitted to," and "slight excuses" have not been "received," only because none, however slight, have been offered. Eighteen months have passed since Mexico has had in her hands a treaty sanctioned by the Executive and Senate of the United States, which falls short—very far short—of carrying out all the acknowledged obligations of our government. The minister who negotiated it, in several important particulars deviated from his instructions, and always to the disadvantage of the claimants. Its terms and stipulations, if adopted, would work the most manifest injustice to the claimants, and are such that nothing but despair of ever attaining justice could induce them to acquiesce in. For eighteen months Mexico has omitted to give it her ratification. It has become a *caput mortuum*; and no excuse, no apology, no explanation has been tendered to an insulted nation for this act of contemptuous disregard of her most conciliatory and yielding offers. The honor, the dignity of the nation, imperatively demands that no similar proposition should be again entertained. The experience of the past has painfully and severely taught the claimants, (and it is hoped the lessons have not been thrown away upon the government), that, under such a convention as that projected, the interests of the one would be sacrificed, and the honor of the other prostituted. Under no circumstances, should such an arrangement be again sanctioned; nor, unless under other and far better guarantees than such as appear in that *projet*, should any mixed commission be again established.

What course, then, is left open? The claims against Mexico may now be arranged under four distinct classes: First, such as have been already adjudicated by the former board. These may be recognized as

settled definitely, excepting so far as fraud and forged papers, and suppressions of evidence, in derogation of treaty engagements, can be shown. Secondly, such as have passed through the ordeal of a full investigation in the presence of the commissioners of both parties. Thirdly, those which, owing to the impediments interposed by the government of Mexico, or her functionaries, were left unadjusted. Fourthly, those which were never exhibited to the former board, whether they occurred before or since the time limited by the convention of 1839.

The first class has been settled by the adjudications of the board ; and, although much injustice has been wrought by those decisions, they should, perhaps, be allowed to stand, unless the claimants can establish, by distinct testimony, that injustice has been perpetrated through false or forged papers, or by the withholding of evidence which Mexico was bound to furnish. Three years and a half have elapsed since the last of these cases was decided. By the convention of September, 1838, it was agreed that Mexico should forthwith pay the whole sum awarded against her, by furnishing such an amount of her evidences of public debt as should realize in the London market whatever might be found due by her. This arrangement was, as we have seen, allowed to expire by the non-ratification of the convention by Mexico. The substituted treaty of 1839 provided that Mexico should pay the sums awarded in treasury notes, which should be receivable at her custom-houses in payment of duties, should it prove inconvenient for her to pay the whole promptly in gold or silver. At her solicitation, and for her accommodation, by the convention of the 30th January, 1843, further indulgence was given. She was allowed until April, 1843, to pay the arrearages of interest ; and the principal, with the subsequently accruing interest, was to be paid within five years from that date, in equal quarterly instalments. Three of these instalments were paid with something like punctuality. Since January, 1844, not a farthing has been paid which has ever reached the claimants. On the 31st July, 1845, six instalments will be in arrear to them. The right to postponement has been forfeited by this omission. By the terms of the convention of 1843, all the internal duties of the nation were pledged as a fund for these payments ; that fund has been diverted from this purpose, and thus again the treaty has been broken. The claimants have the right to insist and call upon their government, under these circumstances, to demand the prompt liquidation of what is due them. As Mexico has thought proper to suspend all diplomatic relations between the governments, this branch of the case should be definitely closed. We can no longer call upon them for their quarterly instalments.

The second class comprehends cases which have been examined by

the joint commission, and upon which both parties have been heard. The reasons of the one for allowing, and of the other for disallowing, have been fully given. The diplomatic intercourse between the two governments is closed, and the American Executive is in possession of ample materials upon which its judgment can be exercised. The views and opinions of the able men who represented the United States are before them; the objections of Mexico are fully stated. Both parties have been heard—so far, at least, as the American commissioners can be understood as representing the claimants. Every solemnity has been observed—every objection heard; and the parties cannot but hope and expect that this government will recognise as final and conclusive the judgment of those whom they have invested with these high functions. So far as these cases have thus been acted on, the character of the claim ought to be considered as adjudicated, and the amount of compensation settled definitely and for ever. After Mexico has pursued the course which it has been shown she has done—after she has abstracted from the archives of the convention the evidence upon which claims were sustained—she cannot, with any show of justice or reason, ask to be at liberty to compel the parties again to reproduce that testimony, and prove their cases over again. It is a received maxim of positive law in every community where law exists, that presumption exists *in odium spoliatoris*. In every aspect in which the case can be viewed, Mexico occupies this position. She was the spoliator in committing the original wrong. She is the spoliator in withholding the evidence which she had solemnly promised to furnish, or in fabricating false testimony. She is the spoliator in appropriating to herself the very evidence which had been produced to establish her responsibility.



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